

2025:PHHC:018584



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRR-2565-2008(O&M)

Date of Decision:-07.02.2025

Sukhdev Singh.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Ms. Kamlesh, Advocate, Amicus Curiae for the Petitioner.

Mr. Prabhdeep Singh Dhaliwal, Assistant Advocate General,
Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The present revision petition has been filed impugning the judgment dated 17.11.2008 passed by Additional Sessions Judge, Ferozepur whereby the appeal filed against the judgment of conviction and order of sentence dated 22.02.2007 passed by Judicial Magistrate Ist Class, Abohar has been dismissed.

2. The FIR in the present case came to be registered on 02.10.2000. The judgment of conviction was passed on 22.02.2007 by the Judicial Magistrate Ist Class, Abohar. The Appeal filed against the order of conviction was dismissed on 17.11.2008 by the Additional Sessions Judge, Ferozepur. The instant revision petition was filed on 01.12.2008 and has come up for final hearing now i.e. after a period of 24 years from the date of

registration of the FIR.

3. Briefly stated, the facts of the case of the prosecution are that on 2.10.2000 on receipt of information in the police station regarding admission of Harminder Singh son of Karnail Singh and other passengers in Civil hospital Abohar having received accidental injuries, ASI Iqbal Singh alongwith other members of police party reached civil Hospital Abohar and recorded the statement of complainant Balwinder Singh son of Bhag Singh of Village Khippanwali. In his statement he stated that he was an agriculturist. His cousin Raghubir Singh son of Jugraj Singh had been admitted in the PGI Chandigarh. On that day, in the morning he and his other cousin Harminder Singh S/o Karnail Singh and his sister-in-law Jaswinder Singh wife of Raghubir Singh boarded bus bearing registration No. PB-05E-9697 for going to Chandigarh to see his other cousin Raghubir Singh. The bus was being driven by Sukhdev Singh. At about 6.00 am the bus reached at "T" point of Village Chanan Khea. The driver of the bus namely Sukhdev Singh was driving the bus at a high speed in a rash and negligent manner and due to his rash and negligent driving the bus over turned due to which the passengers of the bus sustained injuries. They came out of the bus and after arranging a conveyance, they reached at Civil Hospital, Abohar where they were medico legally examined. Due to serious injuries on the person of his bother Harminder Singh he was being taken to the DMC Ludhiana but on the way, he expired due to the injuries. The accident had occurred due to the rash and negligent driving of the bus by accused Sukhdev Singh. Based on this statement the FIR was registered. The investigation of this case was conducted by ASI Iqbal Singh. The investigating Officer visited the place of occurrence and prepared the rough site plan of the same. He also recorded the statements of the witnesses. The

bus involved in the accident was taken into police possession and mechanical test of the same was got conducted from mechanic. The accused was arrested in this case. After completion of the investigation, final report U/s 173 Cr.P.C. was presented before the Trial Court.

4. Charges were framed against the accused under Section 279/304-A/337/338 IPC to which he pleaded not guilty and claimed trial.

5. In order to substantiate the charge against the accused the prosecution examined PW-1 Balwinder Singh, complainant, PW-2 Dr. DP Godara, SMO Civil Hospital Abohar, PW3 Ramesh Chander, PW-4 Jaswinder Kaur, PWS ASI Iqbal Singh. PW-6 Bakhshish Masih, PW-7 Anu Sharma, PW-8 PHG Gurjant Singh, Pw-9 Dr. R.K. Arora, SMO Civil Hospital Abohar, Pw-10 Deputy and PW-11 Neeraj Kumar Clerk Regional Transport authority, Ferozepur.

6. After closure of the prosecution evidence, the statement of the accused was recorded under Section 313 Cr.P.C. by putting all the incriminating evidence to him. He denied alleging the same to be incorrect. In defence evidence, the accused produced and examined DW-1 Satish Kumar and DW-2 Darshan Singh, DW-3 Ranjit Singh.

7. Based on the evidence led, the accused/petitioner came to be convicted and sentenced by the court of Judicial Magistrate Ist Class, Abohar vide judgment and order of sentence dated 22.02.2007 as under:-

Offence Section	under	Sentence	Fine	RI/SI in default of payment of fine
279 IPC		Six Months	Rs.500/-	RI for 01 Month
337 IPC		Six Months	Rs.500/-	RI for 01 Month
338 IPC		One Year	Rs.1000/-	RI for 02 Months
304-A IPC		One Year	Rs.1000/-	RI for 02 Months

All the aforesaid sentences were ordered to run concurrently.

8. The accused/petitioner preferred an appeal which came to be dismissed by the Court of Additional Sessions Judge, Ferozepur vide

judgment dated 17.11.2008.

9. The aforementioned judgments are under challenge in the present petition.

10. During the pendency of the instant revision petition, the sentence of the accused/petitioner was suspended vide order dated 17.12.2008.

11. The learned Amicus Curiae contends that as per the evidence on record the accused has not denied the alleged accident, but has stated that the Bus overturned due to the sudden breakage of the front 'Kamani Patta' of the non-driver side, as a result of which the bus overturned and hence there is no negligence on the part of the accused. In fact the alleged accident took place due to a mechanical fault in the bus.

She contends that the Courts below while passing the impugned judgments did not appreciate the evidence of PW-3 Ramesh Chander (Mechanic Punjab Roadways, Ferozepur) to the effect that it was likely that the front patta had broken and in such cases the driver of the bus could not be held liable for the accident. In fact at the time of examination of the bus by him on 4.10.2000, he had found the patta of the concerned bus broken.

She contends that the defence evidence of DW-1 namely Satish Kumar and that of DW-2 Darshan Singh has not been considered and appreciated by the courts. Similarly the statement of DW-3 namely Ranjit Singh, who deposed that chances of a bus overturning are high in case of breakage of the main leaf (Patta) of a bus and the driver could not be blamed for that has also not been appreciated.

She therefore contends that the impugned judgments were liable to be set aside.

12. The Counsel for the State on the other hand has filed a custody

certificate of the accused/petitioner dated 06.02.2025 in the Court today, which is taken on record. He contends that the evidence on record was sufficient to establish the culpability of the accused. The prosecution witnesses had deposed consistently as to the manner in which the occurrence had taken place. There were no discrepancies in their statements as has been sought to be argued. Therefore, the present petition was liable to be dismissed.

13. I have heard learned Counsel for the parties and examined the record.

14. From the prosecution evidence, evidence led in defence as well as the arguments addressed by the learned Amicus Curiae it is apparent that at the time of the accident accused Sukhdev Singh was driving the offending bus. So far as the death of Harminder Singh in this accident is concerned the same has not been disputed by the accused. Similarly, grievous injury on the person of Surjit Singh as mentioned in the copy of the MLR Ex. PW2/A proved on record has also not been denied. Therefore, from the evidence on record it stands proved that due to the accident by the bus No. PB-05-E-9697 being driven by accused on 2.10.2000, Harminder Singh died and Surjit Singh received grievous injuries.

15. As regards evidence of rash and negligent driving, PW-1 Balwinder Singh, complainant, PW-1, Jaswinder Kaur, PW-4 have specifically deposed in court that the accused present in court was driving the bus in question in a rash and negligent manner at the relevant time. PW-4 has also deposed that the passengers of the said bus also asked the accused to drive the bus slowly but he did not bother about their request. Both these witnesses are the actual witnesses of the occurrence and they have deposed in unequivocal terms that the accused at the relevant time was driving the

bus negligently and rashly which resulted in the accident and the causing of death of Harminder Singh and sustaining of the injuries by the other passengers. Driving of the bus by the accused negligently and rashly is also proved by PW-3 Ramesh Chander Mechanic. He, while appearing in the witness box deposed that on 4.10.2000, he mechanically tested the bus No. PB-5-E-9697 and gave his test report Ex.PW3/A. He further deposed that the front main leaf (Patta) of the bus was found broken. A suggestion was given to this witness that the bus over turned due to breakage of the main leaf of the bus but the witness denied this fact.

16. In defence evidence, the accused produced three witnesses namely DW-1 Satish Kumar, DW-2 Darshan Singh and DW-3 Ranjit Singh. So far as the testimonies of DW-1 and DW2 are concerned, the same are of no help to the case of the accused as DW-1 while appearing in the witness box deposed on oath that he was a conductor on the bus involved in this accident and the accused Sukhdev Singh was the driver on the said bus. He deposed that on 10.2.2000, they were going from Abohar to Patiala on the bus being driven by Sukhdev Singh. In the area of Balluana the iron plate of the bus on conductor side was broken due to which the bus turned turtle and the injuries were sustained by the passengers. Similarly, DW-2 Darshan Singh while appearing in the witness box deposed on oath that on 10.2.2000, he was going from Abohar to Gidderbaha by the bus No. PB-05-E-9697 and they started at about 6.00 am from Abohar and that when they reached near the Balluana, the conductor side patta of the bus was broken due to which the bus over turned. He deposed that it was due to a mechanical defect and that he alongwith with others received injuries. Both these witnesses gave the date of the accident as 10.2.2000 whereas in the instant case, the accident occurred on 2.10.2000 which has been proved from oral as well as

documentary evidence. Since both these witnesses produced by the accused deposed about the accident taking place on 10.2.2000, their testimonies are of no help to the accused in the present case. Further, even if for the sake of arguments it is presumed that these witnesses stated a wrong date due to a mistake, and the date stated by these defence witnesses was supposed to be 2.10.2000, even then their depositions are of little help to the case of the accused because both these witnesses deposed that due to mechanical defect the bus over turned due to which the passengers received injuries. None of these witnesses are mechanical experts and therefore they cannot be expected to depose exactly qua the mechanical failure of the bus if any. Further, the presence of DW-2 in the bus on the relevant date is also doubtful because he himself is also stated to have sustained injuries but no MLR or any other certificate qua his medical treatment was produced.

17. DW-3 Ranjit Singh deposed that he was a diploma holder in Electrical Engineering. He stated that if the conductor side front belt spring main leaf (Patta) broke, the bus may or may not overturn but the possibility of the bus turning over is high if the clumps are not fixed properly. He also opined that if the bus over turned due to breaking of the spring the main leaf, then the driver could not be blamed. He proved the test report as Ex.DW3/A and deposed that the bus may have overturned due to that reason. The testimony of this witness is also of no help to the case of the accused because this witness is an electrical Engineer and not a mechanical engineer. During cross examination, he deposed that the patta may break due to carelessness of the bus driver and plying of the bus on a small road. This witness not being a mechanical engineer and being an electrical engineer has not given the exact reason for the mechanical defect which led to the accident beyond the control of the driver. He has stated during the cross

examination that the patta may be broken due to carelessness of the driver of the bus and plying of the bus on the small road. The accused was employed as a driver on the bus involved in the accident and if there was any defect regarding fixing of the clumps properly as stated by DW-1 and had he driven the bus carefully, the accident could have been avoided.

18. Keeping in view the aforementioned discussion the prosecution has established its case beyond reasonable doubt and, therefore, finding no merit in this petition, the same stands dismissed.

19. As regards the imposition of sentence, it may be pointed out that this Court in **Gurmukh Singh Vs. State of Punjab CRR No.2168-2014**

Decided on 13.12.2023 held as under:-

“ 21. Thus two parallel threads are :

- a. Courts should normally avoid showing undue sympathy to the accused by imposing inadequate sentence as the same is harmful to the justice system ; and
- b. The Supreme Court has repeatedly considered the fact that ordeal of facing pangs of prolonged trial needs to be considered while deciding adequacy of sentence in the matters pertaining to offence punishable under Section 304-A IPC. Where the accused has faced the prolonged trial running into more than a decade before it is finally concluded by the High Court or the Supreme Court and both the Courts found that the victim needs to be compensated adequately, the time spent in the lis by an accused and compensation to the victim can form relevant considerations for reduction in sentence.

22. In the present case the present revision is pending consideration for last nine years. FIR relates to the year 2007. The petitioner was granted suspension of sentence on 27.10.2014 after he expressed his readiness to compensate the victim by paying Rs.1.00 lac. The afore said amount stands paid. The question is, having paid compensation as per the orders of this Court 9 years back, should the petitioner be asked to go back behind bars? It is in these mitigating circumstances that this Court finds it appropriate to follow the orders passed by Apex Court in **K. Jagdish's case** (supra) as the facts in the present case are almost similar to those before the Apex Court. I may hastenly add here that the petitioner is claimed to have paid compensation and neither the State nor the victim has agitated

against the order passed by this court asking the petitioner to deposit compensation and granting him suspension of sentence.

- 23. The petitioner is a first time offender and has no past criminal record or antecedents. He is not reported to have ever misused concession of bail/suspension of sentence. He has undergone about 6 months out of substantive sentence of 1 year and has already faced protracted trial for last 16 years.*
- 24. Taking into consideration all these facts cumulatively, the substantive sentence of 1 year awarded to the petitioner by the Courts below is reduced to the period already undergone by him.*
- 25. Petition is disposed off, accordingly.”*

20. Admittedly, the occurrence pertains to the year 2000 and as many as 24 years have passed ever since then. A perusal of his custody certificate would show that he does not have any criminal antecedents and is a first time offender. Therefore, subject to the payment of the fine as imposed and payment of Rs.1 Lac as compensation to be paid to the legal heirs of the deceased, the sentence of the accused/petitioner is reduced to the period already undergone by him i.e. 01 month and 08 days.

21. The present revision petition stands disposed of in the above terms.

(JASJIT SINGH BEDI)
JUDGE

February 07, 2025
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>