

2025.PHHC.001718



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

CRR-2651-2008(O&M)

Date of Decision:-09.01.2025

Nirmal Singh.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

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

Present:- Mr. Rajesh Bhateja, Advocate for the Petitioner.

Mr. Harkanwar Jeet Singh, AAG 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, Patiala whereby the appeal filed against the judgment of conviction and order of sentence dated 10.11.2005 passed by Sub Divisional Judicial Magistrate, Samana has been dismissed.

2. The FIR in the present case came to be registered on 28.11.2001. The judgment of conviction was passed on 10.11.2005 by the Sub Divisional Judicial Magistrate, Samana. The Appeal filed against the order of conviction was dismissed on 17.11.2008 by the Additional Sessions Judge, Patiala. The instant revision petition was filed on 10.12.2008 and has come up for final hearing now i.e. after a period of 23 years from the date of

registration of the FIR.

3. Succinctly, the prosecution version was that on 27.1.2001 the complainant Jaswinder Singh had gone to Patran on his scooter for domestic work Ravinderjit Singh son of his brother-in-law Pala Singh resident of Dera Ajingarh P.S. Gulha, Distt. Kaithal (Haryana) who had come to village Dhanetha for repairing a TV set met him near Patran at about 7.30 p.m. while he was on Bajaj Chetak Scooter bearing Registration No PJV-8737, with pillion rider Surinder Singh son of Iqbal Singh and they were also having one TV set with them. While on their journey from Patran to Samana, the scooter of Surinder Singh and Ravinderjit Singh was ahead of the scooter of the complainant. They were on their left side. When they reached at bus stand village Kakrala, a jeep came from the opposite side at a high speed being driven by its driver in a rash and negligent manner. The jeep, all of a sudden took a turn from the main road, Samana, towards village Kakrala link road and as such hit the scooter of Ravinderjit Singh. As a result of the impact, both the persons traveling on the scooter fell down and received numerous injuries However, Ravinderjit singh succumbed to his injuries at the spot, whereas Surinder Singh was taken to Civil Hospital, Samana. The driver of the jeep managed to escape by taking the benefit of the darkness. Post Mortem on the dead body of Ravinderjit Singh was got conducted. A case under sections 279/337/304-A IPC was registered. The investigating officer prepared rough site plan of the place of occurrence and took the scooter and the broken TV into police possession. Photographs of the place of occurrence were clicked. Blood stained clothes of the deceased Ravinderjit Singh were taken into police possession. The scooter was got mechanically tested. On 5.12.2001 the accused was arrested in this case on the statement of Surinder Singh who had identified him. After taking the

jeep bearing No.DBB-4715 taken into police possession, the same was also mechanically tested. The statements of the witnesses under section 161 Cr.P.C. were recorded. After completion of the investigation, final report under section 173 Cr.PC was furnished in the court.

4. In order to prove the offences against the accused/petitioner, the prosecution examined PW1 HC Piara Singh, PW-2 Jaswinder Singh (complainant), PW-3 Dr. Satish Arora, PW-4 Surinder Singh, PW-5 Jaswant Singh, PW-6 HC Harvinder Singh, PW-7 ASI Amrik Singh and thereafter the evidence of the prosecution was closed.

5. On conclusion of the prosecution evidence, the accused/petitioner was examined under Section 313 Cr. P.C. He denied the allegations of the prosecution case and pleaded that he had been falsely implicated in this case. He closed his defence evidence in the trial Court without examining any witness in defence.

6. Based on the evidence led, the accused/petitioner came to be convicted and sentenced by the court of Sub Divisional Judicial Magistrate Samana vide judgment and order of sentence dated 17.11.2008 as under:-

Offence under Section	Sentence RI/SI	Fine	RI/SI in default of payment of fine
304-A IPC	RI for 1-1/2 Years	Rs.1500/-	RI for 02 Months

5. The accused/petitioner preferred an appeal which came to be dismissed by the Court of Additional Sessions Judge, Patiala vide judgment dated 17.11.2008.

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

7. During the pendency of the instant revision petition, the sentence of the accused/petitioner was suspended vide order dated 03.02.2009.

8. The counsel for the accused/petitioner contends that the judgment of conviction and order of sentence was passed on the basis of conjectures and surmises. The evidence of the prosecution witnesses is discrepant in material particulars. PW-2 Jaswinder Singh has not seen the occurrence. Petitioner-Nirmal Singh was not present at the time of occurrence and he was implicated in the present case after a number of days. In addition he contends that in case this Court was to come to a finding that the prosecution had established its case beyond reasonable doubt, then keeping in view the fact that the occurrence was of the year 2001 and the case had come up for final hearing now after a gap of 23 years, the accused/petitioner may be released on probation subject to payment of compensation.

9. The Counsel for the State on the other hand has filed a custody certificate of the accused/petitioner dated 07.01.2025 and the same is taken on record. He contends that the evidence on record was sufficient to establish the culpability of the petitioner. The prosecution witnesses had deposed 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.

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

11. The evidence of the prosecution is consistent with the guilt of the accused/petitioner. The manner in which the occurrence took place has been explained in detail by PW-2 Jaswinder Singh (complainant) and PW-4 Surinder Singh (eye witness). Further from the deposition of the aforementioned PWs the identity of the petitioner also stands established beyond doubt. Therefore, I find no infirmity in the judgments of the Trial

Court as well as of the lower Appellate Court. Resultantly, the present revision stands dismissed.

12. 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 aforesaid 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.”*

13. Admittedly, the occurrence pertains to the year 2001 and as many as 23 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. 02 months and 20 days, particularly in view of the fact that under the orders passed by the Motor Accident Claims Tribunal an amount of Rs.1,08,000/- had already been awarded as compensation to the family members of the deceased.

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

(JASJIT SINGH BEDI)
JUDGE

January 09, 2025
Vinay

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