

2025:PHHC:012370



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

CRR-715-2008(O&M)

Date of Decision:-28.01.2025

Pawan Kumar.

.....Petitioner.

Vs.

State of Haryana & Anr.

.....Respondents.

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

Present:- Mr. Keshavam Chaudhry, Advocate for the applicant/Petitioner.

Mr. Viney Phogat, Deputy Advocate General, Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The main petition was ordered to be listed for hearing vide order dated 26.04.2024, 10.05.2024 and lastly on 23.01.2025 whereas only CRM-28782-2023 seeking permission for renewal of passport of the petitioner is listed today.

An oral request has been made on behalf of the petitioner for taking up the main petition on board for final hearing.

On request of Counsel for the petitioner, the main petition is ordered to be taken up on board today and is being heard on merits.

CRR-715-2008(O&M)

The present revision petition has been filed impugning the judgment dated 08.04.2008 passed by Sessions Judge, Panchkula whereby the appeal filed against the judgment of conviction and order of sentence

dated 27/28.01.2006 passed by Judicial Magistrate Ist Class, Panchkula has been dismissed.

2. The FIR in the present case came to be registered on 15.06.2002. The judgment of conviction was passed on 27/28.01.2006 by the Judicial Magistrate Ist Class, Panchkula. The Appeal filed against the order of conviction was dismissed on 08.04.2008 by the Sessions Judge, Panchkula. The instant revision petition was filed on 10.04.2008 and has come up for final hearing now i.e. after a period of 22 years from the date of registration of the FIR.

3. The brief facts of the case are that the complainant Parkash who was labourer by profession, alongwith Sat Pal was going to Pyarewala brick kiln for labour work on 15.6.2002. The uncle of the complainant namely Bant Ram was also coming from the side of village Gadhi Kotaha. When Bant Ram after talking to them, started moving towards Vill.Gadhi Kotaha, a Maruti van came from the side of Raipur Rani at a fast speed and in rash and negligent manner and without blowing any horn and hit his uncle Bant Ram due to which the head of Bant Ram struck against the road. They raised an alarm and then the van driver stopped his van at some distance. They took Banta Ram to the hospital Naraingarh in the offending van. At about 10.30 P.M., the driver of the van went away from the hospital after leaving them there. The number of the van was CHO1V-8025 and name of the driver was Pawan Kohli. Thereafter, his uncle Bant Ram succumbed to his injuries after one hour. On the basis of this information, the FIR under section 279 and 304A IP was registered. The matter was investigated. Post mortem of the deceased was got conducted. The Maruti van was taken into police possession. After completion of investigation, the challan was presented in the court for trial.

3. Thereafter, charge under section 279 and 304-A IPC was framed against the accused/petitioner to which he did not plead guilty and claimed trial.

4. In support of its case, prosecution examined Parkash Chand complainant PW-1, Satpal PW-2, J.S.Vagehra, Om Parkash PW-4, Dr. Naveen Garg PW-5, C.Krishan Kumar PW-6 and ASI Kehar Singh PW-7.

5. The statement of accused was recorded under section 313 Cr.P.C. in which the incriminating material was put to him. He denied the same and pleaded false implication. No evidence was lead in defence.

6. Based on the evidence led, the accused/petitioner came to be convicted and sentenced by the court of Judicial Magistrate Ist Class, Panchkula vide judgment and order of sentence dated 27/28.01.2006 as under:-

Offence under	Sentence RI/SI	Fine	RI/SI in default of payment of fine
304-A IPC	RI for 02 Years	Rs.2000/-	SI for 02 Months
279 IPC	RI for 06 Months	Rs.500/-	SI for 01 Month

Both the aforesaid sentences were ordered to run concurrently.

7. The accused/petitioner preferred an appeal which came to be dismissed by the Court of Sessions Judge, Panchkula vide judgment dated 08.04.2008.

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

9. During the pendency of the instant revision petition, the sentence of the accused/petitioner was suspended vide order dated 09.05.2008.

10. The counsel for the accused/petitioner contends that the judgments of conviction are based on conjectures and surmises. There was no evidence of rash and negligent driving. The prosecution witnesses were

discrepant in material particulars. The number of the vehicle was not clear. 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 2002 and the case had come up for final hearing now after a gap of 22 years, the accused/petitioner may be released on probation subject to payment of compensation.

11. The Counsel for the State on the other hand has filed a custody certificate of the accused/petitioner dated 28.11.2024 as well as Status report by way of affidavit of Mr. Surender singh, HPS, Assistant Commissioner of Police, Panchkula in the Court today, which are taken on record. He contends that the evidence on record was sufficient to establish the culpability of the petitioner. 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.

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

13. The prosecution has examined seven witnesses in this case in which PW-1 Parkash Chand complainant specifically deposed that vehicle No.8025 came and hit his uncle Bant Ram deceased and proved his statement Ex.PW-1/A in which the number of the vehicle is mentioned as CHO1V-8025 of red colour. The prosecution examined PW-6 C.Krishan Kumar who deposed that on 19.6.2000 accused Pawan Kumar came to the police station in Maruti Van NO. CHO1V-8025 alongwith documents and proved memo Ex.PW.3/B and Ex.PW.3/C. The IO also proved that memo Ex. PW.3/B and Ex.PW.3/C were prepared and the documents of the van

were taken into police possession. The argument that number of the vehicle was not narrated by the complainant at the time of his statement, is not sustainable when other witnesses examined by the prosecution stated about the number of the Maruti Van being CH01V-8025 which was taken into police possession by the police.

14. PW.5 Dr. Naveen Garg proved MLR Ex-PW-5/A and post mortem of deceased Bant Ram as EX.PW-5/B and inquest report Ex. PW-2/B. So the death of Bant Ram stands established due to injuries caused in the accident. The statement of complainant Parkash Chand was recorded in court on 9.8.2003 and he specifically deposed that one year earlier they were going towards Pyarewala brick kiln, then a Van driven by Pawan Kumar caused this accident and Bant Ram and he was brought by accused/petitioner Pawan Kumar in his van to a hospital at Naraingarh where Bant Ram died and he made complaint Ex. PW-1/A.

15. From the statement of the complainant as well as other witnesses examined by the prosecution, it stands established beyond doubt that accused Pawan Kumar drove vehicle no.CHO1V-8025 on 15.6.2002 in rash and negligent manner so as to endanger human life and personal safety of others and caused the death of Banta Ram.

16. In view of the aforementioned discussion, I find no infirmity in the judgment of conviction and therefore, the present petition stands dismissed.

17. 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.”*

18. Admittedly, the occurrence pertains to the year 2002 and as many as 22 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 03 days.

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

(JASJIT SINGH BEDI)
JUDGE

January 28, 2025
Vinay

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No