

2025:PHHC:040387



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

CRR-791-2008(O&M)

Date of Decision:-25.03.2025

Baldev Singh @ Deba.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

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

Present:- Ms. Dheerja, Advocate (Amicus Curiae) for the Petitioner.

Mr. Harkanwar Jeet Singh, Assistant Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The present revision petition has been filed impugning the judgment dated 11.03.2008 passed by Additional Sessions Judge, Amritsar whereby the appeal filed against the judgment of conviction and order of sentence dated 4.7.2006 passed by Chief Judicial Magistrate, Amritsar has been dismissed.

2. The FIR in the present case came to be registered on 17.03.1998. The judgment of conviction was passed on 4.7.2006 by the Chief Judicial Magistrate, Amritsar. The Appeal filed against the order of conviction was dismissed on 11.03.2008 by the Additional Sessions Judge, Amritsar. The instant revision petition was filed on 28.04.2008 and has come up for final hearing now i.e. after a period of 27 years from the date of registration of the FIR.

3. The case against the accused was registered on the basis of the

statement of Salwinder Singh son of Gura Singh who stated that on 17.3.1998 he was going on his bicycle towards his village. Balwinder Singh, member Panchayat his brother met him on the way at the turning point of the road leading towards Cheecha. The Complainant was plying the cycle and Balwinder Singh was sitting behind him. When they reached somewhere ahead of the Behak of Gurmej Singh @ Kala of village Hoshiar Nagar, at about 6.30 P.M Avtar Singh their nephew came on a Bajaj Chetak Scooter. He started talking with them after slowing down his scooter. In the meantime, one Peter Rehra (Gharuka) came at a very high speed which was being driven by Baldev Singh @ Deva of their village and Baldev Singh ran over the scooter with the Peter Rehra. The scooter was extensively damaged and Avtar Singh suffered serious injuries. The Peter Rehra could only be stopped in the fields of wheat after travelling 30-40 yards from the place of accident. Baldev Singh, who was known to the complainant earlier ran away from the spot after leaving his Peter Rehra. The Complainant along with his brother took the injured to their village. In the way he died. The accident occurred due to the rash and negligent driving of Baldev Singh. The case was registered against the accused. Post-mortem on the dead body of Avtar Singh was got conducted. Site plan was prepared, blood stained earth was taken up from the place of accident, the scooter and Peter Rehra were taken into police possession. The accused was arrested and released on bail. The investigation was conducted. After completion of the same, the challan was presented in the court.

4. Finding a prima facie case, charge under Sections 279, 304-A, 427 of Indian Penal Code was framed against the accused to which he pleaded not guilty and claimed trial.

5. In order to prove its case, the prosecution examined complainant Salwinder Singh as PW-1, Balwinder Singh son of Gura Singh appeared as PW2, C. Gurbachan Singh appeared as PW3, ASI Lakhbir Singh appeared as PW4, Kundan Singh son of Ujjagar Singh appeared as PW5, Manjit Singh son of Makhan Singh appeared as PW6, Darshan Singh son of Shingara Singh appeared as PW7, HC Kulwinder Singh appeared as PWB, Dr. Kirpal Singh appeared as PW9, HC Rakesh Kumar appeared as PW10, and thereafter evidence of the prosecution was closed by order.

6. Statement of the accused was recorded under section 313 Cr.P.C in which the entire incriminating evidence appearing against him was put to him to which he pleaded innocence and denial and alleged false implication.

7. Based on the evidence led, the accused/petitioner came to be convicted and sentenced by the court of Chief Judicial Magistrate, Amritsar vide judgment and order of sentence dated 4.7.2006 as under:-

Offence under Section	Sentence	Fine	RI/SI in default of payment of fine
Section 279 IPC	06 Months	Rs.500/-	RI for 01 Month
Section 304-A IPC	01 Year	Rs.1000/-	RI for 02 Months

Both 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, Amritsar, vide judgment dated 11.03.2008.

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 05.05.2008.

11. The Amicus Curiae for the petitioner contends that the judgments of conviction are based on conjectures and surmises. There is no evidence of rash and negligent driving of the accused. His identity has not been established as per law. There are discrepancies between the deposition of the material PWs. The accident occurred due to a punctured tyre. In addition, she 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 1998 and the case had come up for final hearing now after a gap of 27 years, the accused/petitioner may be released on probation or his sentence be reduced to the period already undergone by him subject to payment of compensation.

12. The Counsel for the State on the other hand has placed on record the custody certificate dated 19.03.2025. He contends that the statements of the prosecution witnesses are consistent with each other and clearly established the culpability of the accused. There is sufficient evidence of the rash and negligent driving on the part of the accused. His identity has been duly established as per law. He, therefore, prays that the present petition was liable to be dismissed.

13. I have heard counsel for the parties.

14. The case of the prosecution hinges upon the testimony of the eye witnesses namely Salwinder Singh PW1 and Balwinder Singh PW2. Both these witnesses have categorically testified that on 17.3.98 when they were returning to their village on their cycle, the accused caused the death of Avtar Singh who was going on a scooter by rashly and negligently driving the Peter Rehra. Both these witnesses were cross-examined at length but their veracity could not be impeached. Though some discrepancies have been pointed out in the statements of these two witnesses but the same are

not material in nature. These witnesses are discrepant with regard to the time of occurrence as PW1 Salwinder Singh has stated that the accident took place at 6.30 P.M whereas PW2 Balwinder Singh has stated that it took place at 5.30 P.M Balwinder Singh PW2 stated that after the accident the Peter rehra went towards the right side whereas Salwinder Singh PW-1 stated that it went towards the left side of the road. The other discrepancies are with regard to number of persons collected at the spot after the accident and with regard to the colour of the clothes worn by the deceased at that time. Such minor discrepancies are bound to occur even in the statements of the most truthful witnesses as the power of observation and retention in memory varies from person to person.

15. As regards the argument of the Amicus Curiae that the accident occurred due to the left tyre being punctured, reference has been made to the cross-examination of PW3 C.Gurbachan Singh who mechanically tested the 'Gharuka' and the factum of left front tyre having been punctured was admitted by the witness. However, this defence is only an after thought. The eye witness namely Salwinder Singh PW1 and Balwinder Singh PW2 were not been confronted with this fact that the accident had taken place due to the puncturing of the peter rehra as no question was put to the eye witness in their cross-examination in this regard. The accused attempted to take undue advantage of the fact that the front left tyre was found to be punctured at the time when it was mechanically tested on 24.3.98 by PW3 C.Gurbachan Singh.

16. The argument that the negligence on the part of the accused has not been proved is also liable to be repelled. Merely on account of the fact that the deceased Avtar Singh was not proved to be a holder of a valid driving licence is not by itself sufficient to say that the accident took place

due to the negligence of the deceased. On the contrary, there is ample evidence on record that the deceased was going along with the complainant and his brother at a very slow speed as at that time he was talking with them and speed of his scooter cannot be more than the speed of the cycle on which the complainant and his brother were going on the road. Even otherwise the factum of negligence of the accused is writ large on account of the fact that as per law no person is supposed to drive a peter rehra on a road. The very manufacturing and plying of a Peter Rehra is not permissible as such vehicles are not road worthy. A Peter Rehra which is locally manufactured cannot be said to be a road worthy vehicle which are usually manufactured with the help of advanced technology having special regard to road safety. Thus plying of a peter rehra on a road by itself amounts to a negligent act.

17. As regards the identity of the accused, the same was not disputed at all by the accused. Even otherwise there is not even a denied suggestion in the cross-examination of eye witness PW2 Balwinder Singh and PW1 Salwinder Singh that the accused was not driving the peter rehra at the time of the accident.

18. In view of the above discussion, I find no merit in the petition and 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 1998 and as many as 27 years have passed ever since then. A perusal of the custody certificate of the accused/petitioner would show that there is no other case of similar nature. 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 02 days.

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

terms.

(JASJIT SINGH BEDI)
JUDGE

March 25, 2025
Vinay

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