

2025:PHHC:009315



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

CRR-2159-2009(O&M)

Date of Decision:-22.05.2025

Mohan Singh.

.....Petitioner.

Vs.

State of U.T., Chandigarh.

.....Respondent.

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

Present:- Ms. Garima Dikshit, Advocate (Amicus Curiae) &
Mr. Ajit Pal Singh Sabharwal, Advocate for the Petitioner

Mr. Manish Bansal, PP U.T., Chandigarh along with
Mr. Rajiv Vij, Addl. PP U.T., Chandigarh for respondent.

JASJIT SINGH BEDI, J.(ORAL)

The present revision petition has been filed impugning the judgment dated 10.08.2009 passed by Additional Sessions Judge, Chandigarh whereby the appeal filed against the judgment of conviction and order of sentence dated 12.11.2007 passed by Judicial Magistrate Ist Class, Chandigarh has been dismissed.

2. The FIR in the present case came to be registered on 24.03.2005. The judgment of conviction was passed on 12.11.2007 by the Judicial Magistrate Ist Class, Chandigarh. The Appeal filed against the order of conviction was dismissed on 10.08.2009 by the Additional Sessions Judge, Chandigarh. The instant revision petition was filed on 19.08.2009 and has come up for final hearing now i.e. after a period of more than 20 years from the date of registration of the FIR.

3. The brief facts of the case are that on 24.03.2005 a wireless message was received in the Police Station that one person had been admitted in the General Hospital, Sector 16, Chandigarh due to an accident. On receiving this information, SI Mahabir Singh along with other police officials reached at the hospital. There Deepak Kumar s/o Shri Ramesh Kumar r/o house no. 4572, Maloya Colony, Chandigarh got recorded his statement that he was residing at the aforesaid address along with his family. On that day i.e. 24.03.2005 at about 7.30 p.m. he along with friend Rinku was going from Sector 8 Madhya Marg to Sector-7 Madhya Marg on his motor cycle Hero Honda Bearing No. CH-21(T)-6607 and he was driving the motor cycle. When he reached just ahead of the chowk of Sectors 7/8/18/19, a Tata-407 of the Govt. of India came from the side of light point bearing No.CH-01-G-0781 at a very high speed in a rash and negligent manner and struck against his motor cycle. As a result of the impact they fell down on the road and received serious injuries. Thereafter, they had been taken to the hospital for medical examination. However, his friend Rinku was referred to the PGI, Chandigarh. This accident was caused due to the rash and negligent driving of the driver of Tata-407. Later on Rinku succumbed his injuries at PGI, Chandigarh on 25.03.2005.

4. On the basis of this complaint and endorsement made by SI Mahabir Singh and further endorsement made by SI Darshan Singh, the formal FIR was registered. Rough site plan of the place of occurrence was prepared. The offending vehicles along with its documents were taken into police possession through separate recovery memos. Mechanical test of the vehicles in question was conducted and its reports were obtained. The spot was also photographed. MLR of the injured was obtained and post mortem on the dead body of the deceased was also conducted and its report was

obtained by the Investigating Officer. The accused was formally arrested and his personal search was carried out. Statements of the witnesses were also recorded under Section 161 Cr.P.C and after completion of necessary investigation, Challan against the accused was submitted in the Court for Trial.

5. Since there existed a prima facie case under Sections 279/338 and 304-A of the Indian Penal Code against the accused, he was charge-sheeted accordingly. He pleaded not guilty and claimed Trial.

6. In order to prove its case the prosecution examined Deepak Kumar as PW1, Anil Kumar as PW2, Dr. Anjali Gupta as PW3, Dr. Prem Chand as PW4, Dr. D.K. Pathak as PW-5, Constable Rakesh Kumar as PW6, Narinder Kumar as PW7, Harish Kumar Sharma as PW7/A, Viresh Trikha as PW8, Sumit Sood as PW-9, Shiv Kumar as PW-10, Mahabir Singh as PW-11.

7. The statement of accused was recorded under Section 313 Cr. P.C. in which he denied all the allegations of the prosecution leveled against him and stated that case has been planted against him by the police.

8. In his defence evidence the accused examined Sant Ram DW1.

9. Based on the evidence led, the accused/petitioner came to be convicted and sentenced by the court of Judicial Magistrate Ist Class, Chandigarh vide judgment and order of sentence dated 12.11.2007 as under:-

Offence under Section	Sentence	Fine	RI/SI in default of payment of fine
Section 279 IPC	RI for 03 Months	-	-
Section 338 IPC	RI for 03 Months	-	-
Section 304-A IPC	RI for 09 Months	Rs.500/-	RI for 15 Days

All the aforesaid sentences were ordered to run concurrently.

10. The accused/petitioner preferred an appeal which came to be

dismissed by the Court of Additional Sessions Judge, Chandigarh vide judgment dated 10.08.2009.

11. The aforementioned judgments are under challenge in the present revision petition.

12. During the pendency of the instant revision petition, the sentence of the accused/petitioner was suspended vide order dated 27.10.2009.

13. The Amicus Curiae and Counsel for the accused/petitioner contend that a false case has been planted upon the accused. In fact, no accident had taken place as alleged. The accident did take place between a car and the motor cycle. The accused was not driving in a rash and negligent manner. He thus contends that the impugned judgments are liable to be set aside and the accused be acquitted of the charges framed against him. 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 2005 and the case had come up for final hearing now after a gap of more than 20 years, the accused may be released on probation or his sentence be reduced to the period already undergone by him subject to payment of compensation.

14. The Counsel for the State on the other hand has placed on record the custody certificate dated 22.05.2025. He contends that the prosecution witnesses are clear and consistent in material particulars as to how the occurrence took place. No enmity of the said prosecution witnesses has been established with the accused, and therefore, there is no question of his false implication. He thus contends that no fault can be found with the impugned judgments and the present revision petition is liable to be dismissed.

15. I have heard counsel for the parties.

16. PW1-Deepak Kumar who is the complainant as well as an injured/eye-witness of the occurrence has proved the prosecution case. He stated that on 24.03.2005 he along with his friend Rinku @ Ashwani was going towards Madhya Marg Sector-7 on a motor cycle bearing No. CH-21(T)-6607. He was driving the motor cycle and his friend Rinku was sitting on the rear side. When they reached near the Chowk of Sector 7/8/18/19, then from the press light point side a Tata-407 belonging to Govt. of India came from the back side, which was being driven by a Sikh person at a very high speed and in a rash and negligent manner . The truck struck against their motor cycle. As a result of the impact they fell down on the road and received serious injuries on their person. They were taken to the hospital for medical examination. However, his friends Rinku was shifted to PGI, Chandigarh. This witness identified the accused present in the Court and stated that he was the same person who was driving the offending vehicle in a very rash and negligent manner at the time of the accident. He further deposed that later on his friend had succumbed to his injuries at PGI, Chandigarh due to the accident. He also deposed that he had also received Injuries on his hands and shoulders. This material witness was cross-examined at length but nothing fruitful could be extracted out of his cross-examination which could favour the accused. Therefore, this witness has proved on record that the accused was driving the offending vehicle at a very high speed and in a rash and negligent manner thereby causing the death of Ashwani @ Rinku. Similarly, Dr Anjali Gupta, PW3 proved the post mortem report of deceased-Ashwani as Ex.PW3/A, Anil Kumar PW2 identified the dead body of his brother-Ashwani as Ex. PW2/A. Further more, Investigating officer PW11 SI Mahabir Singh has also proved the

investigation part of the case and proved the relevant documents which were taken into possession during the investigation.

17. So far as the injuries of Deepak Kumar-PW1 injured are concerned, PW4-Dr. Prem Chand has proved on record his report as Ex. PW3/A and corresponding ski-grams as Ex.P-1 to Ex. P-4. He clearly stated that Deepak Kumar received a fracture of the right scapula and fracture of metacarpal bone of the left thumb. Similarly, PW5-Dr. D.K. Pathak has proved medico-legal case summary of injured-Deepak Kumar as Ex.PW-5/A and he declared the injuries nos.1 & 5 as grievous. Therefore, the prosecution has proved on record that Deepak Kumar had received grievous injuries due to the accident.

18. The plea of false implication cannot be believed. The accused never approached or complained to the higher authorities that he had been falsely implicated in the present case by the investigating Officer. He did not make any complaint to his department that he had been involved falsely by the police. DW1-Sant Ram deposed that the accident had taken place on 24.03.2005. He admitted that Mohan Singh was arrested by the police in the present case on 27.03.2005. He further stated that he was working in the same department of the accused and he did not inform the officers of their department in writing that the accused had been falsely implicated in the present case. He further stated that he had not made any complaint to the Senior Officers of the police that the accused has been falsely implicated in the present case. Therefore, the whole defence version of the accused that no accident had taken place cannot be believed. In fact the prosecution has established its case beyond reasonable doubt.

19. In view of the above discussion, I find no merit in the petition and the same stands dismissed.

20. 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.”

21. Admittedly, the occurrence pertains to the year 2005 and more than 20 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 accused/petitioner is ordered to be released on probation for a period of 01 year on his furnishing probation bonds to the satisfaction of Illaqa/Duty Magistrate.

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

(JASJIT SINGH BEDI)
JUDGE

May 22, 2025
Vinay

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