

2025 PHHC:056893



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

CRR-2269-2009(O&M)

Date of Decision:-01.05.2025

Avtar Singh.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

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

Present:- Mr. Mohit Garg, Advocate 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 11.07.2009 passed by Additional Sessions Judge, Patiala whereby the appeal filed against the judgment of conviction and order of sentence dated 26.09.2008 passed by Additional Chief Judicial Magistrate, Patiala has been dismissed.

2. The FIR in the present case came to be registered on 21.07.2004. The judgment of conviction was passed on 26.09.2008 by the Additional Chief Judicial Magistrate, Patiala. The Appeal filed against the order of conviction was dismissed on 11.07.2009 by the Additional Sessions Judge, Patiala. The instant revision petition was filed on 31.08.2009 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. Briefly stated, the case of the prosecution is that on 21.7.2004,

complainant Kuldeep Singh son of Uttam Singh, Jat by caste, resident of village Hassanpur, PS Sadar, Patiala, aged 50 years, got recorded his statement Ex. PC with HC Pawlinder Singh of PP Bhadurgarh. In the statement the complainant stated that he was an agriculturist. On that day, he along-with his nephew Harwinder Singh son of Sukhwant Singh were going on their separate bicycles towards Gurudwara Sahib Naumi Patshahi, Bahdurgarh in order to pay obeisance. When they reached on the Patiala Rajpura road near the water tank, the nephew of the complainant was at a distance of about 30/35 karams. Meanwhile, a bus being driven in a rash and negligent manner, without blowing horn came from their back side and struck against the bicycle of his nephew. Due to said accident, his nephew fell towards his left hand side and the bus ran over him and stopped a little ahead. The driver of the bus and passengers alighted from it. The complainant enquired the whereabouts of the driver, who disclosed his name as Avtar Singh s/o Harpal Singh r/o village Hadowate, PS Machiwara. Then the complainant took care of his nephew, who was unconscious. He had received multiple injuries on his head, face and blood was also oozing from the injuries. The complainant read the number of the bus as PB-12-E-9265 and it belonged to Punjab Roadways Chandigarh. In the meantime co villager s/o Gurdial Singh arrived there. The accident took place at about 4:15 PM. A number of persons gathered at the spot. Taking advantage of the public gathered at the spot, the accused made good his escape. Gurmeet Singh made arrangement for a vehicle and Harwinder Singh was shifted to Rajindera Hospital, Patiala, where he was declared dead. After depositing the dead body of Harwinder Singh in Mortuary, when the complainant was going to lodge complaint, the police party met him at the place of occurrence where he got recorded his statement. The accident has taken place due to the

rash and negligent driving of the bus. After recording the statement of the complainant, the investigating officer made his endorsement, EX. PC/1 on it and sent it to the police station through PHG Harnek Singh, on the basis of which formal FIR against the accused Ex. PC/2 was recorded.

The investigating officer arranged photographers, who took photographs of the place of occurrence. Rough site plan Ex. PW6/A was prepared by the investigating officer. The bus bearing registration number PB-12-E-9265 and bicycle of deceased were taken into police possession vide memos Ex. PD and Ex. PE respectively On 22.7.2004, the investigating officer prepared the inquest report Ex. PW6/C of the deceased Harwinder Singh and got conducted post mortem examination vide report Ex. PF. The application moved by the investigating officer in this regard is Ex PW6/B. The dead body was then handed over to the relations of the deceased for funeral. The accused was arrested in 22.7.2004. The arrest memo Ex. PW6/D was prepared. Personal search memo of the accused Ex. PW6/E was also prepared. The registration certificate of bus bearing registration No. PB-12E-9265 along with copy of insurance, route permit, time table and driving licence of accused were taken into police possession vide memo Ex. PW6/F. Statements of the witnesses were recorded. On 22.7.2004 the bus was also got mechanically tested from HC Piara Singh, who submitted his report Ex. PG. After completion of necessary formalities of investigation challan against the accused was presented in court.

4. Charge was framed against the accused u/s 279/304A IPC to which the accused pleaded not guilty and claimed trial.

5. In order to prove its case the prosecution examined the following witnesses and thereafter closed its evidence:

(i) PW1 Budh Ram, Time Table Clerk proved on record the copy of time

table Ex.PA and copy of route permit Ex.PB regarding bus No. PB-12E-9265 KM Scheme.

(ii) PW2 Kuldeep Singh, complainant deposed that on 21.7.2004, he along-with his nephew Harwinder Singh son of Sukhwant Singh were going on their separate bicycles towards Gurdwara Sahib Naumi Patshahi, Bahadurgarh in order to pray. When they reached near the water tank on the Patiala Rajpura road, his nephew was at a distance of about 30/35yards. There, a bus being driven in a rash and negligent manner, without blowing the horn came from their back side and struck against the bicycle of his nephew. Due to said accident, his nephew fell towards his left hand side and the bus crushed his body. The bus stopped a little ahead. He enquired about the identity of the driver, who disclosed his name as Avtar Singh s/o Harpal Singh r/o village Hadowate, PS Machiwara, His nephew received multiple injuries on his body and blood was also oozing from the injuries The bus was bearing registration no. PB-12-E-9265 of Punjab Roadways Chandigarh. In the meantime Gurmeet Singh s/o Gurdial Singh of his village reached there. The accident took place at about 4:15 PM. A number of persons gathered at the spot. The accused however fled away from the spot, after leaving the bus there. The injured was taken to the Rajindra Hospital, Patiala, where he was declared dead.

(iii) PW3 Drover Singh, photographer deposed that on 21.7.2004 he took photographs of the place of the accident and proved on record the photographs Ex.P1 to Ex P5 negatives thereof Ex P6 to Ex P10 and memo Ex. PW3/A, vide which these were taken into police possession.

(iv) PW4 Dr. Didar Singh, deposed that on 22.7.2004 he conducted the post mortem examination on the dead body of Harvinder Singh and proved his report Ex.PF.

(v) PW5 HC Piara Singh deposed that on 22.7.2004 he mechanically tested the Bus bearing registration no. PB-12E-9265 and gave his report Ex.PG.

(vi) PW6 HC Palwinder Singh, investigating officer deposed with regard to the investigation conducted by him. He also deposed that on 21.7.2004 he recorded the statement of the complainant Ex.PC and made endorsement Ex.PC/1 on the basis of which formal FIR Ex.PC/2 was registered against the accused. He took into possession vehicles involved in the accident and also prepared the rough site plan. He got conducted post mortem examination on the body of deceased after moving an application to the doctor concerned. He arrested the accused on 22.7.2004 and released him on bail. The copies of insurance, RC, route permit of the bus and driving licence of accused were taken into police possession vide memo. Personal search memo of the accused was prepared. On the same day. He got conducted mechanical test of the bus from HC Piara Singh. He further deposed that after obtaining report from office of DTO and completion of investigation, challan against the accused was presented in court.

(vii) PW7 Pal Singh, Clerk, DTO, Mohali proved Registration certificate of the bus bearing registration No.PB-12E-9265 which was in the name of Kulwant Singh son of Ram Singh, resident of HIG 341, Sector 71, Mohali.

6. After conclusion of the prosecution evidence, statement of the accused u/s was recorded under Section 313 Cr.PC, whereby he was confronted with all the incriminating circumstances appearing against him. He denied all the allegations leveled against him and pleaded innocence and false implication. The accused however did not opt to lead any evidence in defence.

7. Based on the evidence led, the accused/petitioner came to be

convicted and sentenced by the court of Additional Chief Judicial Magistrate Patiala vide judgment and order of sentence dated 26.09.2008 as under:-

Offence under Section	Sentence	Fine	RI/SI in default of payment of fine
Section 304-A IPC	RI for 01 Year	Rs.1000/-	RI for 02 Months
Section 279 IPC	RI for 06 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, Patiala, vide judgment dated 11.07.2009.

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

10. During the pendency of the instant revision petition, the sentence of the accused/petitioner was suspended vide order dated 22.10.2009.

11. The Counsel for the accused/petitioner contends that there is no evidence of rash and negligent driving on the part of the accused. His identity has not been established as per law. No independent prosecution witnesses have been examined. 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 2004 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.

12. The Counsel for the State on the other hand has placed on

record the custody certificate dated 29.04.2025. He contends that the deposition of the complainant Kuldeep Singh (complainant) is clear and categorical that it was the driver who was driving the offending vehicle in a rash and negligent manner. It is the quality and not the quantity of evidence which is relevant and, therefore, mere non examination of any independent witness cannot be said to be fatal to the prosecution case. He thus contends that no fault can be found with the impugned judgments and the present revision petition is liable to be dismissed.

13. I have heard counsel for the parties.

14. From the evidence available on record, the identity of the accused stands established beyond reasonable doubt. The prosecution evidence is clear and cogent that the accused was driving the vehicle in a rash and negligent manner causing the accident in question. Merely because no independent prosecution witness was examined does not affect the prosecution case as it is the quality and not the quantity of evidence which is relevant. In the case in hand the deposition of PW-2 Kuldeep Singh (complainant) cannot be disbelieved.

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

16. 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.”*

17. Admittedly, the occurrence pertains to the year 2004 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 sentence of the accused/petitioner is reduced to the period already undergone by him i.e. 03 months and 24 days.

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

(JASJIT SINGH BEDI)
JUDGE

May 01, 2025
Vinay

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