



CRR-2333-2009

-1-

(204)

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

CRR-2333-2009

Date of Decision:- 28.01.2025

SUNIL KUMAR SHARMA

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

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

Present:- Mr. Karamjit Verma, Advocate
for the Petitioner.

Mr. Harkanwar Jeet Singh, Asstt. A.G., Punjab.

JASJIT SINGH BEDI, J.

The present revision petition has been filed impugning the judgment dated 25.08.2009 passed by the Additional Sessions Judge, Ludhiana whereby the appeal filed against the judgment of conviction and order of sentence dated 01.11.2007 passed by the Judicial Magistrate, 1st Class, Ludhiana has been dismissed.

2. The FIR in the present case came to be registered on 21.03.2001. The judgment of conviction was passed on 01.11.2007 by the Judicial Magistrate, 1st Class, Ludhiana. The appeal filed against the order of conviction was dismissed on 25.08.2009 by the Additional Sessions Judge, Ludhiana. The instant revision petition was filed on 07.09.2009 and has come up for final hearing now i.e. after a period of more than 23 ½ years from the date of registration of the FIR.

3. In brief, the case of the prosecution is that on 21.03.2001 Gurmit Singh S/o Goda Singh, R/o Virasat Nagar, Tharikey Chowk,

**CRR-2333-2009****-2-**

Ferozepur Road, Ludhiana made a statement to the police that his nephew Baljit Singh S/o Balwant Singh was residing along with his family at village Tharike. On the day of occurrence, he and Baljit Singh were coming from village Tharike to Ludhiana. Baljit Singh was driving his scooter bearing No.PB-12-A-6245, Bajaj Chetak somewhat ahead of him. At about 07.40 PM, when Baljit Singh reached near the traffic lights of Circuit House, then on seeing the yellow light, he stopped his scooter. In the meantime, a truck bearing No.HR-37-4811 which was being driven by its driver very fast and in a negligent manner, ran over his nephew Baljit Singh who was crushed under the truck and he died on the spot. The scooter of Baljit Singh was also badly damaged. The name of the truck driver came to be known later on as Sunil Kumar Sharma S/o Devinder Kumar Pandit R/o Village Kaunke Kalan, PS Sadar, Jagraon. He has seen the accident with his own eyes. The driver with the truck were apprehended at the spot. On his statement ruqa Ex.PA was sent to the police station and FIR No.92 dated 21.03.2001 under Sections 304-A, 279, 427 IPC, P.S. Division No.5, Ludhiana was registered. Statements of the witnesses were recorded and after completion of necessary formalities and investigation, challan against the accused was prepared and presented in the Court.

4. The accused was charge-sheeted under Sections 304-A, 279 IPC to which he pleaded not guilty and claimed trial.

5. In order to prove its case, the prosecution examined PW1-Gurmit Singh, PW2-HC Som Nath, PW3-ASI Jaspal Singh, PW4-CII Joginder Singh, PW5-HC Shange Lal, PW6-Dr. Jasbir Singh. Thereafter, the evidence of the prosecution was closed by order.

**CRR-2333-2009****-3-**

6. Statement of the accused/petitioner was recorded under Section 313 Cr.P.C. in which all the incriminating evidence appearing against him was put to him, to which he pleaded false implication. He (accused/petitioner) examined DW1-Surjit Kumar, also tendered into evidence document Ex.D1 and then closed his defence evidence.

7. Based on the evidence led, the accused/petitioner came to be convicted and sentenced by the Court of Judicial Magistrate, 1st Class, Ludhiana vide judgment and order of sentence dated 01.11.2007 as under:-

Offence under Section	Sentence RI/SI	Fine	RI/SI in default of payment of fine
304-A IPC	RI for 01 year	Rs.500/-	RI for 15 days
279 IPC	RI for 06 months	Rs.100/-	RI for 07 days

Both the 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, Ludhiana vide judgment dated 25.08.2009.

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 by this Court vide order dated 23.11.2009.

11. The counsel for the accused/petitioner contends that the judgment of conviction has been passed on the basis of conjectures and surmises. There were material discrepancies in the statements of the prosecution witnesses. The presence of PW1-Gurmit Singh/complainant is doubtful at the spot. No independent prosecution witness was examined

*CRR-2333-2009***-4-**

despite Manjit Singh being cited as a witness. There was no evidence of the rash and negligent driving of the accused/petitioner. 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 ½ years, the accused/petitioner may be released on probation subject to payment of compensation.

12. The Counsel for the State on the other hand has filed a custody certificate of the accused/petitioner dated 28.01.2025 and the same is taken on record. He contends that the evidence on record was sufficient to establish the culpability of the accused/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.

13. I have heard learned counsel for the parties and examined the record.

14. The submission of the counsel that the prosecution witnesses are contradictory and discrepant, does not carry any weight. Though, the prosecution witnesses are somewhat discrepant but minor discrepancies are not fatal to the case of the prosecution. Therefore, the case of the prosecution cannot be discarded only on the basis of the said discrepancies.

15. PW1-Gurmit Singh has categorically deposed that on 21.03.2001, Baljit Singh (deceased) was driving scooter No.PB-12A-6245 and he was on another scooter and was going ahead to him and it was 7.45 p.m. when they reached near Circuit House Chowk at traffic light chowk.

**CRR-2333-2009****-5-**

There was a yellow signal and Baljit Singh stopped his scooter. A truck No.HR-37-4811 was being driven by the accused Sunil Kumar Sharma present in the Court in a rash and negligent manner. He further categorically deposed that the accused/petitioner struck the truck against Baljit Singh and the truck ran over him and Baljit Singh sustained injuries and died on the spot. He further categorically deposed that the accused/petitioner stopped his truck at the spot as there were many police officials of the traffic wing and when he was going to intimate the relatives of Baljit Singh, the police party recorded his statement and proved the said statement as Ex.PA. The police party took into possession the truck and the documents of the truck vide memos Ex. PC and Ex. PD. He also proved his signatures on the said memos. He further deposed that the accused was arrested at the spot.

16. PW2-HC Som Nath, who is also one of the eye-witnesses to the occurrence, categorically deposed that on 21.03.2001 at about 7.45 p.m., he along with C-II Joginder Singh was on traffic duty at Traffic lights Circuit House, Ferozepur Road and a boy from Jagraon came on his scooter No. PB-12A-6245 and a loaded truck bearing registration No. HR37-4811 came behind being driven in a rash and negligent manner at a high speed whose driver was Sunil Kumar. The truck ran over Baljit Singh who died at the spot. This witness identified the accused/petitioner present in the court.

17. Keeping in view the aforementioned discussion, 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.

18. 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**



CRR-2333-2009

-6-

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.



CRR-2333-2009

-7-

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.”

19. Admittedly, the occurrence pertains to the year 2001 and as many as 23 ½ years have passed ever since then. 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 08 days.

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

(JASJIT SINGH BEDI)
JUDGE

January 28, 2024
Jitesh

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