

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

207

CRR-2348-2009
Date of decision: September 16, 2025

JASWINDER SINGH

...Petitioner

Versus

STATE OF PUNJAB

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present: Mr. Vivek Dahiya, Advocate (*Amicus Curiae*)
for the petitioner.

Mr. Amit Rana, Sr. DAG, Punjab.

MANJARI NEHRU KAUL, J. (ORAL)

1. The instant revision petition is directed against the concurrent findings of conviction recorded by learned Sub Divisional Judicial Magistrate, Samana, vide judgment dated 16.05.2006, whereby the revisionist-accused Jaswinder Singh was convicted under Section 304-A of the Indian Penal Code, 1860, and sentenced to undergo imprisonment as follows:-

Offence(s) under Section	Period of sentence	Fine imposed	Period of sentence in default of payment of fine
304-A of the IPC	RI for 1½ years	₹1,500/-	RI for 2 months

2. The judgment of the learned JMJC was thereafter upheld by the learned Additional Sessions Judge, Patiala vide judgment dated 22.08.2009. The conviction arises out of FIR No.369 dated 23.05.2001 under Sections



304-A/279 of the Indian Penal Code, 1860, registered at Police Station Samana, District Patiala (Ex.PW6/C).

3. The case of the prosecution, as noticed in the FIR as lodged by Budh Singh (PW2), son of Sukhdev Singh (hereinafter referred to as 'the deceased'), is that on 23.05.2001, around 2.00 p.m., the deceased was coming on a bicycle from Village Fatehgarh Channa. As he turned towards his fields, a Mahindra jeep bearing registration No.PB-11H-5904, driven rashly and negligently at high speed from Bhawanigarh side by petitioner Jaswinder Singh (hereinafter referred to as 'the accused'), struck the bicycle.

4. Due to the impact, the deceased fell and sustained grievous injuries, resulting in his instantaneous death. The jeep, after the collision, went out of control, dashed into a *kikkar* tree and overturned. The driver (accused) allegedly managed to escape from the spot, leaving the jeep behind.

5. Investigation commenced. The jeep and damaged cycle were seized vide separate recovery memos (Ex.PW6/E and PW6/F). Rough site plan (Ex.PW6/G) was prepared, inquest proceedings (Ex.PW6/H) carried out, and the body sent for postmortem. The accused was arrested the next day i.e. 24.05.2001.

6. The prosecution, in support of its case, examined the following six witnesses:-



- i. PW1 HC Rajinder Singh (Mechanic), who tested the jeep and submitted his report (Ex.PA);
 - ii. PW2 Budh Singh (complainant/eyewitness). He reiterated the version given in the FIR and identified the accused as driver of the jeep;
 - iii. PW3 Gurjant Singh (another eyewitness) corroborated the testimony of PW2 Budh Singh *qua* rash and negligent driving by the accused
 - iv. PW4 Dr. Majit Singh, who conducted postmortem of the deceased and proved report (Ex.PW4/A);
 - v. PW5 Sham Lal (Junior Assistant, DTO Office) produced record of the driving license of the accused.
 - vi. PW6 HC Chajju Singh (Investigating Officer) proved FIR, site plan, recovery memos, and inquest.
7. The accused, examined under Section 313 Cr.P.C., denied all allegations and pleaded false implication. No defence evidence was led.
8. The learned trial Court, upon appreciation of evidence, convicted the accused under Section 304-A IPC but acquitted him under Section 279 IPC. Appeal before the learned Additional Sessions Judge, Patiala was dismissed on 22.08.2009.
9. Learned *Amicus Curiae* appearing for the revisionist has assailed the conviction of the accused on the following grounds:-



(I) It has been urged that the Courts below erred in convicting the accused without ascertaining whether he was indeed the driver. The jeep, after collision, had overturned upon hitting the *kikkar* tree. It was practically impossible for the driver to break loose and flee. Neither PW2 Budh Singh nor PW3 Gurjant Singh actually saw the driver escaping. No Test Identification Parade (TIP) was conducted to establish the identity of the driver of the jeep.

(II) Learned *Amicus Curiae* further argued that the site plan (Ex.PW6/G) suppressed the distance between the spot of accident and the place where the witnesses were allegedly working. In reality, the distance between the accident site (Mark -A) and position of witnesses (Mark-F) was nearly two acres, rendering it improbable for them to have witnessed the occurrence. The claim of identifying the driver (accused) fleeing is implausible.

(III) Learned *Amicus Curiae* still further vehemently argued that the learned trial Court wrongly shifted burden on the accused to prove who was driving the jeep. It was urged that in criminal law, the initial burden rests solely on the prosecution to prove its case beyond reasonable doubt.

(IV) It was further argued that the accused was arrested the next day, 24.05.2001, outside the police post while alighting from a bus. PW2 Budh Singh happened to be there and allegedly identified him. No Registration



Certificate (RC) of the jeep was produced, nor any independent witness examined to link the accused to the vehicle involved in the accident.

(V) It was lastly argued that the manner in which the jeep had overturned after colliding with the *kikkar* tree, it was highly unlikely that the driver (accused) could have escaped with not even a scratch on his person. Thus, prosecution miserably failed to prove nexus between accused and the offending vehicle.

10. *Per contra*, learned State counsel vehemently supported the conviction. It was argued that enough cogent evidence had been led by the prosecution, and both Courts below, after rightly appreciating the evidence, had recorded findings of conviction against the revisionist. It was also submitted that since PW2 Budh Singh had identified the accused on the very next day of the accident, no TIP was necessary. The findings, being well-reasoned, did not warrant any interference.

11. I have heard learned counsel for the parties and perused the evidence on record.

12. The points which arise for the determination of this Court are:-

- A. Whether the prosecution has proved beyond reasonable doubt that the accused was the driver of the jeep involved in the accident;



B. Whether in the absence of a TIP, and in view of contradictions in the evidence adduced by the prosecution, the conviction under Section 304-A IPC can be sustained.

13. It is a settled principle that in order to sustain conviction under Section 304-A IPC, the prosecution was bound to prove that the accused was driving the offending vehicle; he was driving the vehicle in a rash and negligent manner, and as a result of his rash and negligent driving, it caused the death of the deceased. Proof of the identity of the driver is, therefore, fundamental.

14. The rashness and negligence must be proved by cogent evidence, and cannot be presumed merely from the occurrence of an accident.

15. In the instant case, serious doubts arise regarding the identity of the accused as driver of the jeep:-

- The jeep after colliding with the bicycle of the deceased, struck a tree and overturned. The claim that the driver managed to escape is not corroborated by any cogent or independent evidence. Neither PW2 Bush Singh nor PW3 Gurjant Singh categorically deposed to having seen the accused driving or escaping from the vehicle. Their assertion of identification appears to be an afterthought.



- Significantly, no TIP was held. In a case where accused was allegedly unknown to the witnesses prior to occurrence, omission to conduct TIP is a material lapse. No description of the driver, much less of even his basic physical features, was given by either the complainant PW2 Budh Singh while registering the FIR, nor by PW3 Gurjant Singh while getting his statement recorded under Section 161 Cr.P.C. In the circumstances, it does not appeal to prudence as to how PW2 Budh Singh was able to identify the petitioner while alighting from a bus right in front of the police station, on the following day of the accident.
- Furthermore, the site plan (Ex.PW6/G) is conspicuously silent on the actual distance between the place of occurrence and the position of the witnesses at the relevant time. From the evidence, it emerges that the witnesses were working about two acres away, making it highly doubtful whether they could have clearly identified the driver of the jeep.

16. The Courts ought to be cautioned against reliance on doubtful eyewitness testimony when the circumstances rendered witnessing improbable.

17. The circumstances of arrest are also most unnatural. The accused was alleged spotted the very next day by PW2 Budh Singh at the



police post while alighting from a bus. No independent witness supported this identification.

18. Importantly, no Registration Certificate (RC) of the jeep was produced to link ownership or possession to the accused. The chain of circumstances remains incomplete.

19. Thus, the prosecution failed to prove the identity of the accused as driver of the offending vehicle beyond reasonable doubt. Conviction cannot be sustained on conjectures.

20. It needs to be reiterated that the burden of proof always rests on the prosecution. Until the prosecution discharges its burden, no duty is cast on the accused to prove innocence. The presumption of innocence is a fundamental tenet of criminal law. It has been settled time and again through various judicial pronouncements that if two views are reasonably possible, one pointing to guilt and the other to innocence, the latter must prevail.

21. Applying these principles, the omission of a TIP, the doubtful credibility of eyewitnesses, the implausibility of the escape theory and that too, without the accused sustaining any injury in a serious accident like the present one, and the suspicious circumstances of arrest, together create serious doubt. The accused is, therefore, entitled to the benefit of such doubt. In view of the above discussion, this Court finds that the prosecution has not been able to prove its case against accused beyond reasonable doubt. The identity of the accused as driver of the offending jeep is not established.



Accordingly, the conviction recorded by the Courts below under Section 304-A IPC cannot be sustained.

22. The instant revision petition is accordingly allowed. Judgments of conviction and sentence dated 16.05.2006 and 22.08.2009 are set aside. The accused-petitioner Jaswinder Singh is acquitted of the charge framed against him under Section 304-A of the IPC.

September 16, 2025
Jaspreet Kaur

(MANJARI NEHRU KAUL)
JUDGE

Whether speaking/reasoned : *Yes/No*

Whether reportable : *Yes/No*