

2025:PHHC:031145



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

CRR-2459-2009(O&M)

Date of Decision:-05.03.2025

Sham Lal.

.....Petitioners.

Vs.

State of Punjab.

.....Respondent.

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

Present:- Mr. Pankaj Bains, 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 28.07.2009 passed by Additional Sessions Judge, Nawanshahar whereby the appeal filed against the judgment of conviction and order of sentence dated 17.03.2006 passed by Sub Divisional Judicial Magistrate, Balachaur has been dismissed.

2. The FIR in the present case came to be registered on 11.01.2003. The judgment of conviction was passed on 17.03.2006 by the Sub Divisional Judicial Magistrate, Balachaur. The Appeal filed against the order of conviction was dismissed on 28.07.2009 by the Additional Sessions Judge, Nawanshahar. The instant revision petition was filed on 14.09.2009 and has come up for final hearing now i.e. after a period of 21 years from the

date of registration of the FIR.

3. In brief, the case of the prosecution is that on 11.01.02, complainant HC Darbara Singh made his statement Ex.PW-9/A before ASI Naveen Pal Singh, Incharge of P.P.Aston, stating therein that he was posted as a Head-Constable at Police Post Asron, P.S. Kathgarh. On that day, he alongwith C-1 Sukhbir Singh no: 2119 were going on a Government Motorcycle bearing Registration no: PB-09-2152 from Asron on the highway towards Kathgarh side in connection with patrolling duty. When they had reached near Max India Factory, it was about 07:15 p.m. A Tata-407 vehicle came there from Ropar side and passed nearby them. It was being driven by its driver in a rash and negligent manner. In their sight, the driver of the Tata-407 took it onto the wrong side and struck it against a cyclist, coming from the opposite side. After hitting against the cycle, it turned turtle and the cyclist was buried under the vehicle. He alongwith the help of the workers of the factory turned the vehicle and took out the youth from underneath it, who had died by that time. The age of that person was 24-25 years. The Registration number of that Tata-407 vehicle was found to be PB-07-F-4925. The Driver of that vehicle succeeded to slip away taking benefit of the darkness. Later on, he had come to know the name of the driver of that Tata-407 as Sham Lal son of Gurmeet Ram, Adharmi by Caste, resident of Village Dansiwal, P.S. Garhshankar, Distt. Hoshiarpur. According to the complainant, the accident had taken place due to the rash and negligent driving of the driver of Tata-407. ASI Naveen Pal Singh made his endorsement and sent the same to the police station where the formal FIR was recorded.

4. Thereafter, the Investigating Officer visited the place of occurrence, arranged for the autopsy on the dead body of Rakesh Kumar

after preparing the inquest report. He prepared the rough site plan of the place of occurrence with correct marginal notes, took into possession the offending vehicle and recorded statement of formal witnesses u/s 161 Cr.P.C. He also got mechanically tested the offending vehicle and took into possession the documents of the vehicle. Accused Sham Lal was formally arrested and his licence was taken into police possession. The Tata-407 alongwith its Registration certificate was taken into possession vide recovery memo Ex.PW-4/A. On completion of necessary investigation, the challan was presented in the Court, for trial.

5. After going through the report under section 173 Cr.P.C. and accompanying documents, a prima-facie case under sections 279/304-A/427 IPC was found to have been made out. Charge was framed accordingly, to which the accused did not plead guilty, but claimed trial.

6. In order to substantiate its case, the prosecution examined Pritam Chand as PW-1, Nirmal Singh as PW-2, Tirath Ram as PW-3, C-1 Sukhbir Singh as PW-4, HC Onkar Singh as PW-5, Shashi Kant as PW-6, Kamal Kumar as PW-7, Dr. Neena Shant as PW-8, ASI Naveen Pal as PW-9 and HC Darbara Singh as PW-10. Various documents etc were also proved on the record.

7. On conclusion of the prosecution evidence, the accused was examined under section 313 Cr.P.C., wherein all the incriminating circumstances appearing against him in the prosecution evidence, were put to him. He denied those circumstances, claimed innocence and pleaded false implication. In defence, the accused examined Deepak Rai as DW-1 and closed his defence.

8. Based on the evidence led, the accused/petitioner came to be convicted and sentenced by the court of Sub Divisional Judicial Magistrate,

Balachaur vide judgment and order of sentence dated 17.03.2006 as under:-

Offence Section	under	Sentence	Fine	RI/SI in default of payment of fine
Section IPC	304-A	02 Years	Rs.2,000/-	RI for 01 Month

9. The accused/petitioner preferred an appeal which came to be dismissed by the Court of Additional Sessions Judge, Nawanshahar, vide judgment dated 28.07.2009.

10. The aforementioned judgments are under challenge in the present petition.

11. During the pendency of the instant revision petition, the sentence of the accused/petitioner was suspended vide order dated 25.11.2009.

12. The learned counsel for the petitioner contends that the judgments of conviction are based on conjectures and surmises. There is no evidence of the rash and negligent driving of the accused. In fact his identity has not been established as per law. 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 2003 and the case had come up for final hearing now after a gap of 21 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.

13. The Counsel for the State on the other hand has placed on record the custody certificate dated 04.03.2025. He contends that from the deposition of the witnesses, the identity of the accused stands established beyond doubt. Further, there is sufficient evidence regarding the rash and negligent driving on the part of the accused causing the death of the

deceased in the accident. He therefore, prays that the present petition was liable to be dismissed.

14. I have heard counsel for the parties.

15. A perusal of the evidence on record establishes beyond doubt that it was the accused who was driving the offending vehicle in a rash and negligent manner causing the accident in which the deceased succumbed to his injuries.

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

17. 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.”*

18. Admittedly, the occurrence pertains to the year 2003 and as many as 21 years have passed ever since then. A perusal of the custody certificate of the accused/petitioner would show that he does not have any criminal antecedents and is a first time offender. 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. 04 months and 04 days.

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

(JASJIT SINGH BEDI)
JUDGE

March 05, 2025
Vinay

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