

CRR-2673-2009 (O & M)

2025:PHHC:015371



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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**
(203)

CRR-2673-2009 (O&M)
Date of Decision: 03.02.2025

Ajmer Singh

... .Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Ranjivan Singh, Advocate,
with Mr. Risham Raag Singh, Advocate,
for the petitioner.

Mr. Harkanwar Jeet Singh, AAG, Punjab.

JASJIT SINGH BEDI, J.

The present revision petition has been filed impugning the judgment dated 01.10.2009 passed by Additional Sessions Judge, SAS Nagar, Mohali, whereby the appeal filed against the judgment of conviction and order of sentence dated 21.04.2008 passed by the Sub Divisional Judicial Magistrate, SAS Nagar, Mohali, has been dismissed.

2. The FIR in the present case came to be registered on 10.08.2002. The judgment of conviction and order of sentence was passed on 21.04.2008 by the Sub Divisional Judicial Magistrate, SAS Nagar, Mohali. The Appeal filed against the judgment of conviction and order of sentence was dismissed on 01.10.2009. The instant revision petition was



filed on 06.10.2009 and has come up for final hearing now i.e. after a period of 22 years from the date of registration of the FIR.

3. Briefly stated the prosecution version is that Munish Kumar son of Sukhdial got recorded his statement with ASI Harmesh Kumar to the effect that he was employed with a private contractor. He used to reside with Dhiraj Chadha and Rajnish Kumar at Mohali in a rented house. Dhiraj Chadha was employed at Sector 22-B, Chandigarh. On 08.08.2002, Dhiraj Chadha came to his office at 7-30 p.m. on his scooter bearing no. PB-12-D 6308 and asked him to go to their home, upon which he, Nirdosh Kumar and Dhiraj Chadha proceeded towards their destination. Dhiraj Chadha was ahead of them. When Dhiraj Chadha tried to cross the Chowk of Phase 6 at about 8.00 p.m. in the mean time, the accused-petitioner while driving a bus bearing no. CH-01-G-5776 came at a high speed and struck the scooter of Dhiraj Chadha and dragged him ahead. Dhiraj Chadha was left unconscious and his left leg was fractured. The driver of the bus stopped the bus in question and disclosed his name as Ajmer Singh. Dhiraj Chadha was removed to PGI Hospital Chandigarh, but thereafter, he was shifted to Silver Oak Hospital, Mohali due to his deteriorating condition. The accident occurred due to rash and negligent driving of the accused-petitioner. After recording the said statement, a case was registered. Investigation was initiated. Injured-Dhiraj Chadha succumbed to his injuries on 12.08.2002. The accused-petitioner was arrested on 19.08.2002. After completion of the investigation, the Challan was presented before the Court.



4. Upon presentation of the Challan, charge under Sections 279/304-A IPC was framed against the accused-petitioner to which he pleaded not guilty and claimed trial.
5. The prosecution examined PW-1 Nirdosh eye witness of the occurrence. PW-2 Munish Kumar complainant of the instance case, PW-3 Harmesh Kumar, PW-4 Dr. VK Kak and PW-5 Dr. Tarlochan Singh. Thereafter, the evidence of the prosecution was closed.
6. After closure of evidence of the prosecution, the statement of the accused-petitioner as required under section 313 Cr.P.C. was recorded in which all the incriminating circumstances appearing against him were put to him. He denied the same and claimed false implication.
7. In defence, the accused-petitioner examined DW-1 Deepak, DW-2 Tarlochan Singh Inspector, CTU and DW-3 Balbir Singh Conductor, CTU.
8. Based on the evidence led, the accused/petitioner came to be convicted and sentenced by the court of the Sub Divisional Judicial Magistrate, SAS Nagar, Mohali vide judgment of conviction and order of sentence dated 21.04.2008 as under:-

Offence under Section	Sentence RI/SI	Fine	RI/SI in default of payment of fine
279 IPC	RI for 03 months	--	--
304-A IPC	RI for 01 year	Rs.1,000/-	RI for 15 days

Both sentences were ordered to run concurrently.



9. The accused/petitioner preferred an appeal which came to be dismissed by the Court of Additional Sessions Judge, SAS Nagar, Mohali vide judgment dated 01.10.2009.

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 13.10.2009.

12. The learned counsel for the accused-petitioner contends that the judgments of conviction are based on conjectures and surmises. Only five of the material prosecution witnesses were examined. PW-1/Nirdosh Kumar and PW-2/Munish Kumar were interested witnesses. The occurrence took place on 08.08.2002 and the FIR was registered on 10.08.2002. The injured-Dhiraj Chadha expired on 12.08.2002. There is no explanation for the delay in the registration of the FIR. Rash and negligent driving on the part of the accused-petitioner has not been established beyond reasonable doubt. The defence evidence has not been considered in its proper perspective. Therefore, the impugned judgments are liable to be set aside. 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 2002 and the case had come up for final hearing now after a



gap of 22 years, the accused/petitioner may be released on probation subject to payment of compensation.

13. The learned counsel for the State, on the other hand, has filed a custody certificate dated 21.01.2025 of the accused-petitioner, which is taken on record. As per the said custody certificate, the accused-petitioner has undergone 01 month and 21 days out of his substantive sentence. While referring to the record, he contends that the prosecution witnesses had deposed consistently 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.

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

15. PW-1 Munish Kumar and PW-2 Nirdosh Kumar are the eye witnesses of the accident in question. They have categorically deposed that the accident had taken place due to the rash and negligent driving of the offending bus by the accused-petitioner. They have duly identified him. They also deposed that the accused-petitioner had helped them in taking the injured to PGI Chandigarh. Both the eye witnesses were cross-examined at length but nothing favourable to the defence was brought out.

16. The testimonies of PWs, namely, PW-1 Nirdosh Kumar and PW-2/Munish Kumar stand corroborated by the testimony of PW-3/ASI Harmesh Kumar who conducted the investigation. The deposition of PW-4/Dr. VK Kak from Silve Oak Hospital Mohali where the injured was got



shifted and where he subsequently expired on 12.08.2002 and PW-5/Tarlochan Singh Medical Officer, General Hospital Chandigarh who conducted the post-mortem over the dead body of deceased on 13.08.2002 and proved on record post-mortem report as Ex. PW-5/A and opined that the injuries over head was sufficient to cause death in an ordinary course of nature also corroborate the version of PW-1/Nirdosh Kumar and PW-2/Munish Kumar.

17. The submission made by the learned defence counsel that the FIR has been lodged on 10.08.2002 whereas the accident had taken place on 08.08.2002 and this delay of 42 hours in recording the FIR, has not been explained at all, which makes the prosecution story doubtful, cannot be accepted. The police had been informed about the accident well in time. Ex. PW3/A is the application filed by ASI Harmesh Kumar to SMO, PGI Chandigarh vide which he had asked about the medical fitness of the injured-Dhiraj Chadha. Thus, it was for the police to register the FIR. If for any reason, the police did not register the FIR in time, then the defence cannot take advantage of the same. There is nothing on record as to why the prosecution witnesses would fabricate the prosecution story in order to falsely implicate the accused-petitioner. The intention of the prosecution witnesses was to provide proper treatment to the injured rather than to waste time in pressing upon the police to register the FIR. Therefore, the delay in lodging of the FIR is not fatal to the prosecution case.



18. The defence of the accused-petitioner cannot be accepted. DW-2/Tarlochan Singh stated that the bus in question proceeded from bus stand Sector 17, Chandigarh at about 7.30 PM and it was not possible for him to reach the place of accident, at the given time because it took about 35 minutes for the bus to reach at the spot of accident from Bus Stand Sector 17, Chandigarh. Balbir Singh, Conductor of the bus in question, appeared as DW-3. He also deposed that the offending bus left bus stand Sector 17, Chandigarh on that date, at 7.30 PM for Kharar and reached at the place of accident at about 8.00 PM. Even the eye witness examined by the prosecution have stated the time of the accident was about 8.00 PM and it is in the statements of the defence witnesses that sometimes the bus reached 5/7 minutes before its actual time and sometimes it reached its destination late. This depends upon the traffic situation. Therefore, the defence witnesses do not inspire any confidence and do not prove that the offending bus had reached the spot after the accident.

19. In view of the above 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.

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 :



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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.

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 2002 and as many as 22 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.1,00,000 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. 01 month and 21 days.



- 22. The present revision petition stands disposed of in the above terms.
- 23. Pending applications, if any, are also disposed of.

(JASJIT SINGH BEDI)
JUDGE

February 03, 2025
sukhpreet

Whether speaking/reasoned:- Yes/No
Whether reportable:- Yes/No