

2025:PHHC:022568



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

CRR-2817-2009(O&M)

Date of Decision:-17.02.2025

Gurtej Singh.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

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

Present:- Mr. N.S. Dandiwal, 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 24.09.2009 passed by Additional Sessions Judge, Moga whereby the appeal filed against the judgment of conviction and order of sentence dated 12.05.2007 passed by Judicial Magistrate Ist Class, Moga has been dismissed.

2. The FIR in the present case came to be registered on 15.11.1998. The judgment of conviction was passed on 12.05.2007 by the Judicial Magistrate Ist Class, Moga. The Appeal filed against the order of conviction was dismissed on 24.09.2009 by the Additional Sessions Judge, Moga. The instant revision petition was filed on 30.10.2009 and has come up for final hearing now i.e. after a period of 26 years from the date of registration of the FIR.

3. The brief facts of the case are that when the police party reached near helipad, Karnail Singh complainant met the police party and gave his statement that he was a resident of Langeana and a mason by profession. On that day, his brother Jaswant Singh and Sukhmander Singh were going on their motor cycle make Enfield PB 29A 7175. The Motor Cycle was driven by his brother Jaswant Singh and Sukhmander Singh was pillion rider. He was going behind them on his scooter. When they reached village Dosanjh along the GT road, a bus no. PB 29A 9846 of Mehna Bus Service came at a very high speed, driven rashly and negligently and struck against the motor cycle of his brother. As a result of this accident, his brother further struck against the truck No. PBL 7577 which was going on the left side of the road. In this accident, his brother and Sukhmander Singh received injuries. His brother succumbed to the injuries suffered by him on the spot whereas Sukhmander Singh was taken to the hospital. Later on he came to know that the name of the bus driver was Gurtej Singh. On the basis of his statement, the present case was registered. Ruqa was sent through PHG Gurmel Singh for registration of FIR. The investigating Officer reached at the spot. He prepared the site plan and also took the photographs of the place of accident. Truck No. PBL 7577, Motor cycle Enfield No. PB 29A 7175 and bus no PB 29A 9846 were taken into police possession. The inquest report of dead body of Jaswant Singh was prepared and it was sent to the Civil Hospital, Moga for post mortem examination through HC Mangal Singh and PHG Harmel Singh. The Statements of the witnesses were recorded. On 18.11.1998, Gurtej Singh was arrested in this case. He produced his driving licence which was taken into police possession. The vehicles were mechanically tested. After the completion of entire investigation, the challan was presented in the court.

4. Finding a prima facie case, the accused was charged sheeted under section 304A, 279, 337, 338 IPC, to which he pleaded not guilty and claimed Trial.

5. In order to prove its case, the prosecution examined (PW1) Karnail Singh complainant, (PW2) Sukhmander Singh injured eye witness, (PW3) Balwinder Singh mechanic, Punjab Roadways, Moga, (PW4) Onkar Singh Head mechanic, (PW5) Piara Singh, (PW6) ASI Fauja Singh the investigating officer, (PW7) Dr. Navraj Singh Medical Officer and (PW8) Mahesh Kumar clerk DTO Faridkot and closed the evidence.

6. The statement of the accused was recorded under section 313 CrPC by putting to him all incriminating circumstances appearing in evidence against him to which he pleaded innocence and claimed false implication. However, he did not lead any evidence in defence.

7. Based on the evidence led, the accused/petitioner came to be convicted and sentenced by the court of Judicial Magistrate Ist Class, Moga vide judgment and order of sentence dated 12.05.2007 as under:-

Offence under Section	Sentence	Fine	RI/SI in default of payment of fine
279 IPC	Six Months	-	-
337 IPC	Six Months	-	-
338 IPC	One Year	Rs.200/-	RI for 01 Month
304-A IPC	One Year	Rs.200/-	RI for 01 Month

All 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, Moga vide judgment dated 24.09.2009.

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 vide order dated

17.11.2009.

11. The learned counsel for the petitioner contends that he does not wish to challenge the conviction of the petitioner but prays that keeping in view the fact that the occurrence was of the year 1998 and the case had come up for final hearing now after a gap of 26 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.

12. The Counsel for the State on the other hand has filed a custody certificate of the accused/petitioner dated 14.02.2025 in the Court today, which is taken on record. He contends that the nature of allegations leveled against the petitioner did not entitle him to any sympathy and therefore, the present petition is liable to be dismissed.

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

14. The rash and negligent driving on the part of the accused stands established beyond reasonable doubt. His identity also stands duly established. The medical evidence shows that the deceased suffered injuries in an accident and died. Therefore, I have no hesitation in holding that the Trial Court and the lower Appellate Court came to the right conclusion by convicting the accused. Thus, the present petition stands dismissed.

15. 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.”*

16. Admittedly, the occurrence pertains to the year 1998 and as many as 26 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. 02 months and 01 day.

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

(JASJIT SINGH BEDI)
JUDGE

February 17, 2025
Vinay

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