

CRR-3145-2009 (O & M)

2025:PHHC:029763



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

(204)

CRR-3145-2009 (O&M)
Date of Decision: 03.03.2025

Labh Singh

... .Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Aditya Sanghi, Advocate, for the petitioner.

Mr. Dharam Pal, AAG, Haryana.

JASJIT SINGH BEDI, J.

The present revision petition has been filed impugning the judgment dated 17.11.2009 passed by Additional Sessions Judge, Kaithal, whereby the appeal filed against the judgment of conviction and order of sentence dated 07/11.11.2008 passed by the Judicial Magistrate Ist Class, Kaithal has been dismissed.

2. The FIR in the present case came to be registered on 15.08.1999. The judgment of conviction and order of sentence was passed on 07/11/.11.2008 by the Judicial Magistrate Ist Class, Kaithal. The Appeal filed against the judgment of conviction and order of sentence was dismissed on 17.11.2009. The instant revision petition was filed on 30.11.2001 and has come up for final hearing now i.e. after a period of more than 25 years from the date of registration of the FIR.



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3. Briefly stated the facts of the prosecution case are that on 14.08.1999 the complainant Roop Chand son of Kishori Lal was traveling in a vehicle Tata-407 bearing no. HR-32/0730 alongwith Roop Chand son of Geeta Ram, Ramdia son of Mansa Ram, Rishi Pal son of Mithu Ram, Sanjay son of Dharam Pal and other 10-12 persons and they were on the way to Kaithal to receive the dead body of Karam Chand son of Mithu Ram. After crossing Pharal Chowk Pundri, the driver Labh Singh started to drive the vehicle in a rash and negligent driving. He was also told by the complainant to drive the vehicle at a moderate speed. At around 9.00 pm., they arrived near the rice seller of Harbans Miglani. Suddenly, the driver Labh Singh (accused-petitioner), turned the vehicle to the other side and at that time he (accused/driver) was also driving the vehicle in a rash and negligent manner. As a result of this, the vehicle rammed into the eucalyptus trees and all the passengers sustained multiple injuries. Roop Chand son of Geeta Ram died due to the injuries sustained by him in the accident. The accident took place on account of the rash and negligent driving of accused-petitioner/Labh Singh. On the basis of statement of complainant Roop Chand Ex.PW6/A, the Rukka Ex.PW9/A was forwarded to the police station upon which the FIR Ex.PW4/A was entered and endorsement Ex.PW4/B was effected on the Rukka. The investigation was commenced and after completion of investigation, the report under Section 173 Cr.P.C. was presented in the Court.

4. Finding a *prima-facie* case, the accused was charge-sheeted under Sections 279, 337, 304-A of Indian Penal Code.



5. To prove its case, the prosecution examined PW-1/Rishi Pal son of Mithu Ram, PW-2/Dr. S.S. Dahiya Medical Officer, PW-3/Anil son of Kulwant Rai, PW-4/Jogi Ram ASI, PW-5/Satpal SI, PW-6/Roop Chand son of Kishori Lal, PW-7/Dr. D.C. Thukral, PW-8/Baljeet Singh Motor Mechanic, PW-9/Gurmail Singh SI, PW-10/Vinod son of Ramdhari, PW-11/Tarsem Singh, PW-12/Roshan son of Ramdia and PW-13/Naresh Kumar Retired inspector.

6. The statement of the accused was recorded under Section 313 Cr.P.C. in which all the incriminating evidence was put to him. He denied the same and pleaded his innocence and false implication.

7. Based on the evidence led, the accused/petitioner came to be convicted and sentenced by the court of the Judicial Magistrate Ist Class, Kaithal vide judgment of conviction and order of sentence dated 07/11.11.2008 as under:-

Offence under Section	Sentence RI/SI	Fine	RI/SI in default of payment of fine
279 IPC	RI for 02 months	--	--
337 IPC	RI for 03 months	--	--
304-A IPC	RI for 01 year	Rs.500/-	SI for 15 days

All 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, Kaithal vide judgment dated 17.11.2009.

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



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10. The learned counsel for the accused-petitioner contends that the judgments of conviction are based on conjectures and surmises. The identification of the accused-petitioner has not been established in accordance with law. There is no evidence of the rash and negligent driving of the accused-petitioner. 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 1999 and the case had come up for final hearing now after a gap of almost 25 years, the legs of the accused had suffered injuries leaving him handicapped, 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.

11. As per the custody certificate dated 25.01.2025, the accused-petitioner has undergone 19 days out of his substantive sentence. The learned counsel for the State 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. He further contends that that the nature of allegations levelled against the petitioner did not entitle him to any sympathy, moreso, when he was a prior convict of a similar offence arising out of FIR No.410/1997 dated 15.08.1997 under Sections 279 and 304-A IPC, Police Station Pundri, Kaithal. Therefore, the present petition was liable to be dismissed.



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

13. The prosecution in order to prove its case has examined 12 witnesses. PW-1/Rishi Pal testified that he alongwith other persons were traveling in the vehicle on 14.08 1999. The accused was known to him earlier. He stated that the accused was driving the vehicle in a rash and negligent manner and he rammed the vehicle into the eucalyptus trees and as a result of the impact of the accident, the passengers of four wheeler sustained injuries and Roop Chand died on the spot. This witness was cross-examined but the defence failed to impeach the credibility of this witness. Nothing was brought in the cross-examination of this witness on the basis of which it could be inferred that the accused was not driving the vehicle in a rash and negligent manner.

14. PW-3/Anil turned hostile but supported the case of prosecution when he stated that the vehicle was being driven by the accused present in the Court. He also stated that the vehicle rammed into the eucalyptus trees which were standing near Rice Sheller. He stated that he also sustained injuries. He stated that the accused was driving the vehicle at a moderate speed and he could not say as to for whose negligence the accident took place. The testimony of this witness coupled with the testimony of other prosecution witnesses i.e. PW-1/Rishi Pal and PW-6/Roop Chand son of Kishori Lal who stated that the vehicle was being driven by the accused in rash and negligent manner and that Roop Chand son of Geeta Ram died in



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the accident is sufficient to prove on the record the case of the prosecution beyond doubt.

15. Although, PW-12/Roshan turned hostile he admitted about the occurrence of the accident. None of the prosecution witnesses have stated that the accused was driving the vehicle at a moderate speed and thereafter all of a sudden the driver (accused-petitioner) lost the control over the vehicle as the steering became free and the accident took place. The prosecution witnesses have categorically stated that the vehicle was being driven by the accused in a rash and negligent manner and he by his rash and negligent driving committed the accident. The mere fact that certain witnesses turned hostile is no ground to discard the testimony of other witnesses. The witnesses who turned hostile have also admitted the fact that the accident took place and the identity of the accused is well-proved by the testimony of PW-1/Rishi Pal, PW-3/Anil and PW-6/Roop Chand. Moreover, the name of accused is recorded in the FIR.

16. The prosecution examined PW-8/Baljeet Singh Motor Mechanic who proved on record the report Ex.PW8/A and he in his report stated that steering was not fit for mechanical examination on account of the fact that the cross of the steering was broken. He also observed at the time of inspection of the vehicle that the brake pipe of the vehicle was broken. He observed that there was a bend in the chassis of the vehicle. When the vehicle was being driven by the accused-petitioner in a rash and negligent manner and he by his rash and negligent manner stuck the vehicle



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with the eucalyptus trees then due to the impact of the accident all the mechanical defects which have been noticed by PW-8 took place. If the steering of the vehicle had become free, then the driver could have raised a hue and cry. He could have made aware the passengers that some mechanical defect had arisen in the vehicle and he in order to save the vehicle would hit the vehicle into the eucalyptus trees. However, the same not having been done, the case of the prosecution stands established.

17. The case of the prosecution has also been proved by the testimony of PW-2/Dr S.S. Dahiya Medical Officer who on 15 08.1999 examined Labh Singh son of Naurang, Roop Chand son of Kishori, Ramdia son of Mansa, Rishi Pal son of Mitthu Ram, Sanjay son of Dharam pal, Anil Kumar son of Kulwant Rai. Vinod Kumar son of Ramdhari, Tarsem son of Ram Jawaya, Roshan son of Ramdia, Tejpal son of Fakir Chand, Rajinder Kumar, Roop Chand (deceased) son of Geeta Ram. PW-4/ASI Jogi Ram proved on record the formal FIR Ex.PW4/A. PW-5/SI Satpal proved on record the seizure memo Ex.PW5/a vide which the driving licence of the accused was taken into police custody.

18. PW-9/Gurmail Singh the investigating officer in this case stated about the various aspects taken by him during the investigation. He proved on record the rough site plan Ex. PW9/C. The defence did not suggest to this witness that the accident had taken place on account of the fact that the accused had lost control when the steering of the vehicle became free. On the basis of evidence led by the prosecution, it is proved



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on the record that the vehicle was being driven by the accused in a rash and negligent manner. It is also proved on the record that the accident occurred due to rash and negligent driving of the accused. The identity of the accused is also proved by the prosecution witnesses.

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 :

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.



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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.”*

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21. As regards the imposition of sentence, the occurrence pertains to the year 1999 and as many as almost 25 years have passed ever since then. I am conscious of the fact that the accused is a convict in another case arising out of FIR No.410/1997 dated 15.08.1997 under Sections 279 and 304-A IPC, Police Station Pundri, Kaithal. However, it appears that in the present accident, the accused also suffered injuries on his legs leaving him handicapped. Therefore, subject to the payment of the fine as imposed and payment of Rs.3,00,000 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. 19 days.

22. The present revision petition stands disposed of in the above terms alongwith the pending applications, if any.

(JASJIT SINGH BEDI)
JUDGE

March 03, 2025
sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No