

CRR-3191-2009 (O & M)

2025:PHHC:008204



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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**
(202)

CRR-3191-2009 (O&M)
Date of Decision: 21.01.2025

Suresh Chand

... .Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Abhisar Chaudhary, Advocate
for Mr. Kulvir Narwal, Advocate, for the petitioner.

Mr. Viney Phogat, DAG, Haryana.

JASJIT SINGH BEDI, J.

The present revision petition has been filed impugning the judgment dated 01.12.2009 passed by Additional Sessions Judge, Panipat, whereby the appeal filed against the judgment of conviction and order of sentence dated 03/04.11.2008 passed by the Judicial Magistrate Ist Class, Panipat, has been dismissed.

2. The FIR in the present case came to be registered on 23.12.2002. The judgment of conviction and order of sentence was passed on 03/04.11.2008 by the Judicial Magistrate Ist Class, Panipat. The Appeal filed against the judgment of conviction and order of sentence was dismissed on 01.12.2009. The instant revision petition was filed on



07.12.2009 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. The brief facts of the case of the prosecution are that on 23-12-2002, a telephonic information was received at police post, Bus Stand, Panipal that Ranbir son of Suresh, resident of Hari Nagar, Panipat was admitted in General Hospital, Panipat after receiving injuries in an accident. Sat Narain, Head Constable received medical ruqa and reached General Hospital, Panipat and moved application before the Medical Officer as to whether Ranbir injured was fit to make statement. The Doctor informed him that Ranbir had already been referred to PGIMS, Rohtak. MLR belonging to Ranbir was handed over to Sat Narain, Head Constable in which three injuries were shown to have been received by Ranbir. Injury No.1 was simple, caused with blunt weapon, injuries No.2 & 3 were advised X-ray. Ashok Kumar-complainant got recorded his statement on the main gate of G.H., Panipat to the effect that he was a resident of Hari Nagar, Panipat and was working in a factory. On 23-12-2002 at around 5 P.M., he along with his uncle Suresh son of Amar Singh were coming back to their houses from Ram Sarup Chowk after getting free from their work. His cousin Rinku son of Suresh had taken green fodder from Ram Sarup Chowk on his cycle and was going on his cycle in front of them. In the meantime, a truck came from the side of Kachi Kabri Fatak, Panipat at a high speed and in a rash and negligent manner and without blowing the horn struck the cycle of Rinku. As a result of the said accident Rinku fell down on the road along with his



cycle. The tyre of the truck ran over Rinku. The driver of the truck stopped his truck after covering some distance and alighted from the truck. On being asked, he disclosed his name as Suresh son of Amar Singh, resident of village Mai, District Mahendergarh. The number of the truck was noted down as GJ19T/597. When he along with his uncle Suresh tried to rescue Rinku, the driver of the truck ran away from the spot along with his truck. Rinku was shifted to General Hospital, Panipat after putting him in a tempo. After giving first aid to Rinku, he was referred to PGIMS Rohtak. The accident had taken place because of the rash and negligent driving of Suresh son of Amar Singh while driving truck No.GJ19T/597.

4. On presentation of the challan in the Court, copies of documents were supplied to the accused-petitioner and he was charge sheeted under sections 279/337/304-A IPC to which he pleaded not guilty and claimed trial.

5. In order to prove its case, the prosecution examined as many as eight witnesses, namely, PW-1 ASI Ram Phal, PW-2 Dr. Sheel Kumar, PW-3 Ashok Kumar, PW-4 Suresh, PW-5 Sat Narain ASI, PW-6 ASI Kundan Lal, PW-7 Krishan photographer and PW-8 ASI Sat Narain.

6. Thereafter, statement of the accused was recorded u/s 313 Cr.P.C. in which he pleaded innocence and claimed false implication. However the accused did not lead any evidence in his defence.

7. Based on the evidence led, the accused/petitioner came to be convicted and sentenced by the court of the Judicial Magistrate Ist Class,



Panipat vide judgment of conviction and order of sentence dated 03/04.11.2008 as under:-

Offence under Section	Sentence RI/SI	Fine	RI/SI in default of payment of fine
279 IPC	SI for 06 months	Rs.1000/-	RI for 02 months
337 IPC	SI for 06 months	Rs.500/-	RI for 02 months
304-A IPC	SI for 01 year	Rs.500/-	RI for 02 months

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, Panipat vide judgment dated 01.12.2009.
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 22.12.2009.
11. The learned counsel for the accused-petitioner contends that the judgments of conviction are based on conjectures and surmises. PW-4-Suresh did not identified the accused in the Court. PW-3-Ashok Kumar, the complainant and eye-witness stated in his cross-examination that the offending truck was only at the speed of 40 Kms per hour and the road was in a broken condition. Therefore, it could not be said that the vehicle was being driven in a rash and negligent manner. In fact, Rinku-deceased was carrying fodder on his bicycle because of which it got unbalanced, leading to the accident. 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.

12. The learned counsel for the State, on the other hand, has filed a custody certificate dated 20.01.2025 of the accused-petitioner, which is taken on record. As per the said custody certificate, the accused-petitioner has undergone 26 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.

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

14. The case of the prosecution is an eye version account. The accident took place on 23-12-2002 at around 5 P.M. The statement of Ashok Kumar-complainant has been placed on the record as Ex.PW3/A. At 5 P.M. the accident was caused and said statement was recorded at 7-40 P.M. on the same day. The copy of the FIR is on the record as Ex.PW1/B. In the said FIR, the number of the truck has been mentioned as GJ19T/597 and the name of the driver has been mentioned as Suresh son of Amar Singh. Ashok Kumar-complainant has stepped into witness box as PW-3. He has



reiterated his earlier version with regard to causing of accident by Suresh while driving truck No.GJ19T/597 in a rash and negligent manner on 23-12-2002 at around 5 P.M.

The complainant-Ashok Kumar (PW-3) has categorically identified the accused-petitioner as the same person who caused the accident with his rash and negligent driving. In fact, the accused-petitioner had stopped the truck and had spoken to the complainant. The number of the offending truck was noted down when it was standing at the spot. The RC of the said truck was taken into possession alongwith the driving licence of the accused-petitioner. Merely because PW-4-Suresh did not identify the accused-petitioner does not in any manner suggest that his identification is doubtful.

Further, as the road was in a broken condition and crowded, the speed of even 40 Kms. per hour could be said to be fast and the driving to be rash and negligent. Therefore, the rash and negligent driving of the accused-petitioner stands established beyond reasonable doubt.

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.

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 :



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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*



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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 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. 26 days.

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

(JASJIT SINGH BEDI)
JUDGE

January 21, 2025

sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No