

CRR-763-2009 (O & M)

2025:PHHC:059644



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

(206)

**CRR-763-2009 (O&M)
Date of Decision: 06.05.2025**

Hawa Singh

... .Petitioner

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Ms. Samridhi Sareen, Advocate, (through VC),
for the petitioner.

Mr. Viney Phogat, DAG, Haryana.

JASJIT SINGH BEDI, J.

The present revision petition has been filed impugning the judgment dated 06.03.2009 passed by Additional Sessions Judge, Panchkula, Haryana whereby while dismissing the appeal filed against the judgment of conviction and order of sentence dated 05.10.2006 passed by the Additional Chief Judicial Magistrate, Panchkula, modified the sentence.

2. The FIR in the present case came to be registered on 02.09.2000. The judgment of conviction and order of sentence was passed on 05.10.2006 by the Additional Chief Judicial Magistrate, Panchkula. The Appeal filed against the judgment of conviction and order of sentence was dismissed with modification on 06.03.2009. The instant revision petition was filed on 23.03.2009 and has come up for final hearing now i.e. after a period of 25 years from the date of registration of the FIR.



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3. As per the prosecution case on 02.09.2000, Hawa Singh, a driver with Haryana Roadways, drove bus bearing licence plate No. HR-37-1053 in the area of Kalka rashly and negligently, collided head-on with car bearing licence plate No. DL-4-CA-4524 pushed back the said car a few feet and thereby occupants of the said car sustained various injuries. Avtar Singh was driving the said car and alongwith his wife Narinder Kaur, Sunder Kaur and niece Tamanpreet Kaur was going to Kasauli. Tamanpreet Kaur sustained injuries and she was rushed to the Civil Hospital, Kalka, wherefrom intimation about the accident was sent to the Police. The Police reached the hospital and recorded the statement of injured Tamanpreet Kaur and accordingly registered the instant case under section 279 and 337 IPC. Site plan of the place of accident was prepared. The place of accident was got photographed. The car of Avtar Singh and the offending bus were taken into possession.

4. Smt. Narinder Kaur was taken to the PGI and from there to INSCOL Hospital, Chandigarh. From there, she was referred to the Indraprastha Appollo Hospital, New Delhi where she succumbed to her injuries on 16.09.2000. On her demise, Section 304-A IPC was added to the case. MLRs of the injured and PMR of the deceased were taken into possession by the Investigating Officer. Statements of the witnesses were recorded under Section 161 Cr.P.C. The accused was arrested on 06.09.2000. On completion of investigation, challan was presented in the Court against him.



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5. On being charged under Sections 279 and 304-A of the Indian Penal Code, the accused pleaded not guilty and claimed trial.
6. After recording evidence of the prosecution witnesses and statement of the accused as contemplated under Section 313 Cr.P.C, the Trial Court convicted the accused for the offence under Section 304A IPC and sentenced him as under:-

Offence under Section	Sentence RI	Fine	SI in default of payment of fine
304-A IPC	RI for 02 years	Rs.10,000/-	04 months

8. The accused/petitioner preferred an appeal which came to be dismissed by the Court of Additional Sessions Judge, Panchkula vide judgment dated 06.03.2009. His sentence was modified/reduced from substantive imprisonment of two years to one and a half year.
9. The aforementioned judgments are under challenge in the present petition.
10. During the pendency of the present revision petition, the sentence of the accused-petitioner was suspended by this Court vide order dated 11.05.2009.
11. The learned counsel for the accused-petitioner contends that the judgments of conviction are based on conjectures and surmises. The evidence of the witnesses have not been considered in their proper perspective. The identity of the accused has not been established as per law. Therefore, the impugned judgments are liable to be set aside. In addition, she contends that in case this Court was to come to a finding that



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the prosecution had established its case beyond reasonable doubt, then keeping in view the fact that the occurrence was of the year 2000 and the case had come up for final hearing now after a gap of almost 25 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. As per the custody certificate dated 28.04.2025, the accused-petitioner has undergone 02 months and 16 days out of his substantive sentence. The learned counsel for the State contends that from the testimonies of PW-3/Tamanpreet Kaur, PW-4/Avtar Singh and PW-10/Jail Pal, Inspector, Haryana Roadways Chandigarh, the identity of the accused stands established beyond reasonable doubt. The prosecution evidence has duly established that the accused was driving the vehicle in a rash and negligent manner. He, thus, contends that the present petition is liable to be dismissed.

13. I have heard learned counsel for the parties.

14. PW-3 Tamanpreet Kaur claims to have seen the accused standing near his bus immediately after the accident. During further cross-examination, she stated that she was sitting on the rear seat of the car and had not seen the bus coming. She stated that she could not tell speed of the bus or the car as she did not know how to drive. She stated that name of the accused was disclosed by someone in the hospital at about 3.30 P.M. and



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that after the accident, the accused had fled away from the spot after she saw him. She stated that no test identification parade was conducted.

15. The testimony of PW-3/Tamanpreet Kaur and PW-4/Avtar Singh regarding identification of the accused is not foolproof. However PW-10/Jail Pal, Inspector, Haryana Roadways Chandigarh proved Ex.PW10/1 copy of Duty Roster according to which accused Hawa Singh, Driver No.92 was on duty on Bus No.1053 on 02.09.2000. The accused has not provided any evidence that he was not on duty as a driver of the offending bus. Therefore, identity of the accused stands duly established.

16. PW 1/Dr. S.K.Gupta proved Ex.PA copy of MLR in respect of injured Tamanpreet Kaur. Injuries suffered by PW-3/Tamanpreet Kaur were simple and caused by a blunt weapon. Smt. Narinder expired on 16.09.2000 and it is established by Ex.PW7/A, the copy of the PMR. The cause of death opined by PW-7/Dr. D.N. Bhardwaj was Coma as a result of head injury which was ante-mortem in nature, could be caused by blunt force and also by a road traffic accident. According to PW-4/Avtar Singh, Smt. Narinder Kaur was taken to the PGI, Chandigarh after the accident. But there is no document brought on record by the Police to prove that Smt. Narinder Kaur was ever taken to the PGI, Chandigarh and was treated there. PW-6/Dr. Anupama Jindal, Neuro Surgeon, INSCOL Hospital, Chandigarh proved Ex.PW6/A, which shows that patient Smt. Narinder Kaur was transferred to Indraprastha Appollo Hospital, New Delhi on 09.09.2000. According to PW-6/Dr. Anupam Jindal patient Smt. Narinder Kaur was



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admitted in INSCOL Hospital on 03.09.2000. The accident had taken place on 02.09.2000 around 11.00 a.m.

17. The death of Smt. Narinder Kaur is not in dispute. Factum of the accident by rash and negligent driving of the accused has been well proved by the testimonies of PW-3 Tamanpreet Kaur and PW-4 Avtar Singh. It is proved that Maruti Esteem Car of PW-4 was hit head-on and pushed behind a few yards by the offending bus after swerving on the wrong side of the road. The fact that the offending bus came on the wrong side of the road and went head-on into the car of PW-4 Avtar Singh itself speaks volumes about the rash and negligent driving of the accused.

18. 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.

19. 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 pro-



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longed 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 hasten to 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.



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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.”

20. As regards the imposition of sentence, the occurrence pertains to the year 2000 and as many as almost 25 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. 02 months and 16 days.

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

(JASJIT SINGH BEDI)
JUDGE

May 06, 2025
sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No