

2025:PHHC:069485



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

CRR-1101-2010(O&M)

Date of Decision:-22.05.2025

Bhola Singh.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

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

Present:- Mr. Rohan Garg, Advocate for
Mr. Surinder Garg, 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 04.03.2010 passed by Additional Sessions Judge, Muktsar whereby the appeal filed against the judgment of conviction and order of sentence dated 04.02.2008 passed by Judicial Magistrate Ist Class, Muktsar has been dismissed.

2. The FIR in the present case came to be registered on 06.03.2002. The judgment of conviction was passed on 04.02.2008 by the Judicial Magistrate Ist Class, Muktsar. The Appeal filed against the order of conviction was dismissed on 04.03.2010 by the Additional Sessions Judge, Muktsar. The instant revision petition was filed on 07.04.2010 and has come up for final hearing now i.e. after a period of more than 23 years

from the date of registration of the FIR.

3. As per the prosecution story, a police party led by ASI Nirmal Singh, on 6.3.2002 was present at bus stand Burra Gujjar in connection with patrolling. One Kaka Singh (hereinafter called as complainant) came there and made a statement that he was a resident of village Chagali Kadeem and an agriculturist. On that day, he along with his elder brother Arjan Singh, nephew Baljit singh, niece Baljinder Kaur and Hari Singh were returning to their village after meeting their sisters in village Wadia. The said Arjan Singh was driving the scooter bearing registration No. PB-05E-7976 and his daughter Baljinder Kaur and son Baljit Singh were sitting behind him. He and Hari Singh were coming behind them on a bullet motor cycle. At about 11.30 A.M., when they reached within the revenue limits of village Marmallu, a jeep bearing No. DL-ICE-0691 was seen coming from the opposite side at very high speed. The jeep was being driven rashly and negligently by its driver and it struck the scooter driven by Arjan Singh. His brother along with his nephew and niece fell down and the jeep also turned turtle. He and Hari Singh stopped the motor cycle and came to know the identity of the driver of the jeep as Bhola Singh s/o Ajaib Singh i.e. the present accused. He and his companions saw his brother with grievous injuries who died at the spot. The children also suffered severe injuries. In the mean time, one car came from Sadiq side and both the injured children were taken to Muktsar for treatment. He (the complainant) further stated that the persons sitting on the jeep also received some injuries and they were brought to Sadiq on a canter. He left Hari Singh at the spot and proceeded towards the police station for reporting the matter. The incident occurred due to the faulty driving of the jeep by the present accused.

4. After recording the statement, it was sent through PHG Kulwant

Singh and the formal case was got registered. The police party proceeded towards the spot and they prepared inquest report of the dead body of Arjan Singh and it was handed over to C Angrej Singh for getting post mortem examination in civil hospital, Muktsar. Baljinder Kaur, niece of complainant also died while going to the hospital and intimation was received from the concerned doctor. ASI Nirmal Singh visited the hospital and prepared the inquest report. It was handed over to C Fateh Singh and getting its post mortem examination. Thereafter, ASI Nirmal Singh visited the spot and at the instance of Hari Singh, the spot inspection was done. The investigating officer picked the blood stained earth and normal earth from the spot and prepared separate parcels thereof. The accidental scooter bearing No.PB-05-E-7976 and jeep bearing No.DL-ICE-0691 were taken into police possession and memos were prepared. The statements of witnesses were recorded and on return to the police station, the case property was deposited with MHC Pritam Singh in malkhana. On 8.3.2002, the statement of injured Baljinder Singh was recorded. The test reports of both vehicles were obtained from the mechanic. The driving license of deceased Arjan Singh and registration certificate of scooter driven by him were taken into police possession. The statement of the registration clerk was recorded in this respect. The accused Bhola Singh was arrested and his driving License was taken into police possession. On completion of investigation and necessary formalities, the accused was challaned.

5. The accused Bhola Singh was charge sheeted on three counts for the offences punishable under Section 279/304A/338 IPC. The accused pleaded not guilty and claimed trial.

6. In support of its allegations, the prosecution examined Arun Jain PW-1, Kakka Singh PW-2, Hari Singh PW-3, Dr. Satish Goyal PW-4,

ASI Nirmal Singh PW-5, H.C. Sukhpal Singh PW-6, Parveen Kumar, Registration Clerk PW-7, C Harwinder Singh PW-8, Joginder Kumar Reader PW-9, Baj Singh Clerk PW-10 and Dr. Varinder Wadhwa PW-11. The material witness i.e. injured child Baljit Singh was given up by the APP since he was in trauma due to the incident and his mother made a statement in this regard.

7. After the closure of the prosecution evidence, the incriminating material was put to the accused and his statement was recorded under Section 313 Cr.P.C. The accused denied the allegations of the prosecution as false and claimed innocence. He stated that he was merely a labourer and worked in the field of one Chamkaur Singh landlord. On that day, he was doing labour work in the field along with one Lakhwinder Singh. In support of his case, the accused examined Chakmaur Singh DW-1 and Iqbal Singh DW-2.

8. Based on the evidence led, the accused/petitioner came to be convicted and sentenced by the court of Judicial Magistrate Ist Class, Muktsar vide judgment and order of sentence dated 04.02.2008 as under:-

Offence under Section	Sentence	Fine	RI/SI in default of payment of fine
279 IPC	01 Year	Nil	Nil
304-A IPC	2 Years	Rs.500/-	RI for 02 Months
338 IPC	01 Year	Rs.500/-	RI for 02 Months

All the aforesaid sentences were ordered to run concurrently.

9. The accused/petitioners preferred an appeal which came to be dismissed by the Court of Additional Sessions Judge, Muktsar vide judgment dated 04.03.2010.

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 12.05.2010.

12. The learned counsel for the accused/petitioner contends that there is no evidence on the file to prove that Bhola Singh was driving the jeep. The owner of the jeep has not been examined as prosecution witnesses. PW-2 Kaka Singh and PW-3 Hari Singh have been introduced later on being the relatives of the deceased. In fact, their presence at the spot is highly doubtful. The scooter was an old model and overloaded with 03 passengers. In fact, the accused has led the evidence to prove that he was working as servant with Chamkaur Singh, DW-1 and was not driving the vehicle. He thus prays contends that the present petition be allowed and the accused be acquitted of the charges framed against him. In the alternate, he prays that the accused be granted the benefit of probation or reduction of sentence.

13. The Counsel for the State on the other hand has placed on record the custody certificate dated 21.05.2025 as per which accused/petitioner has undergone a custody period of 03 months and 06 days. He contends that the offence stands established beyond reasonable doubt. The identification of the accused as driving the offending vehicle in a rash and negligent manner is apparent from the evidence available on record including the statement of the complainant Kaka Singh, PW-2. He therefore, contends that offence stands established beyond doubt and the present petition is liable to be dismissed. As regards the prayer for probation or reduction of sentence, he contends that 02 lives were lost in the occurrence and the accused did not deserve any sympathy.

14. I have heard counsel for the parties.

15. In order to prove the ocular version of the incident, the prosecution version is narrated by Kaka Singh PW2 and Hari Singh PW3.

Both the PWs deposed that on 6.2.2002 they were travelling on motor cycle and followed the deceased Arjan Singh, who was carrying his children Baljinder Kaur and Baljit Singh on a scooter. At about 11.30 A.M., one jeep came from the opposite side and it struck the scooter driven by the deceased Arjan Singh. Both the witnesses specifically identified the present accused in the court as the driver of the said jeep. The PWs have deposed that Arjan Singh died at the spot and Baljinder Kaur died while going to the hospital. PW2 has deposed that his statement Ex. PB/1 was recorded by the police. It is evident from the statement dated 6.3.2002 Ex. PB that Kaka Singh disclosed the identity of driver as Bhola Singh son of Ajaib Singh, resident of village Doad. As per his supplementary statement dated 18.4.2002, Ex. PB/1, KakaSingh deposed before the police that driver of the jeep Bhola Singh was known to him earlier since he used to bring the Jeep in the village several times. On one occasion, the jeep developed some snag and it was repaired by a local mechanic.

16. ASI Nirmal Singh PW-5, the investigating officer deposed that on 6.3.2002, Kaka Singh PW2 gave statement Ex. PB before him and after making endorsement, it was sent to police station, on the basis of which formal FIR Ex. PB/3 was registered. PW5 has further deposed that he proceeded to the spot and took photographs through Sukhpal Singh photographer PW6. The inquest report Ex. PF of deceased Arjan Singh was prepared and he moved an application Ex.PF/1 for conducting post mortem examination of the dead body, sent through C Angrej Singh. When PW5 got to know about the death of Baljinder Kaur he prepared her inquest report Ex. PG in the hospital. The dead body was sent for postmortem examinations vide application Ex. PG/1 through C Fateh Singh. The police party reached the spot and picked the earth including the blood stained earth and kept in

parcels Ex. P1 and Ex. P2. These parcels were taken into police possession vide memo Ex.PC. The accidented jeep and scooter were taken into police possession vide memos Ex.PD and Ex.PE respectively. The site plan Ex. PH was prepared. On return to police station, C Fateh Singh and C. Angrej Singh handed over clothes of dead bodies to him which were kept in parcels Ex.P3 and Ex. P4 and were taken into police possession vide memo Ex. PH/1.

PW5 the investigating officer further deposed that on 8.3.2002, he visited Adesh Hospital and moved an application Ex. P3 seeking opinion about the fitness of injured Baljit Singh. The test report of jeep and scooter were obtained through Harwinder Singh, Mechanic PW8. The accused was arrested on 15.3.2002 and his driving license Ex. P5 was taken into police possession vide memo Ex. PK. On 20.3.2002, the registration certificate of the scooter and driving license (Ex. P6 and Ex. P7) of Arjan Singh were taken into police possession vide memo Ex. PL. The registration certificate of jeep Ex. P-8 was taken into police possession on 25.3.2002 vide memo Ex. PM. Photographs and negatives Ex. P1 to Ex. P20 were taken into police possession vide memo Ex.PN. On completion of investigation, the Challan was presented in the court.

17. The medical evidence in this case is led by Dr. Arun Jain PW-1, Dr. Satish Goyal PW-4 and Dr. Varinder Wadhwa PW-11. The PW-1 Arun Jain deposed that on 6.3.2002, he was working as emergency medical officer at Civil Hospital, Muktsar and he sent information regarding the death of an unknown girl vide his endorsement Ex.PA. Dr. Satish Goyal PW4 deposed that on 6.3.2002, he was posted as EMO and conducted the post mortem examination of Arjan Singh and Baljinder Kaur. The PW4 gave his report Ex.PC with pictorial diagram Ex.PC/1 relating to Arjan Singh and PMR

Ex.PD with pictorial diagram Ex. PD/1 concerning Baljinder Kaur. As per PW4, the cause of death was due to cardio respiratory arrest as a result of shock due to injury on vital organs i.e. the brain in case of Arjan Singh and similar cause of death of Baljinder Kaur due to injuries on vital organs i.e. brain, lung and spleen, which were sufficient to cause death. All the injuries were anti mortem in nature. He handed over the police papers Ex.P1 to Ex. P16 with his PMR. Ex. PC and pictorial diagram Ex.PC/1 in respect of Arjan Singh and police papers no.1 to 12 along with PMR Ex.PD with pictorial diagram Ex.PD/1.

18. Dr. Varinder Wadhwa PW-11 deposed that on 6.3.2002, he was posted as orthopedic surgeon at Adesh Hospital, Muktsar and he examined Baljit Singh PW-1 and found the following injuries on his person:

1. Lacerated wound 10 x 6 cm size over right leg just below knee bone deep with active bleeding.
2. Tenderness and crepitus present just above, right knee joint.

PW-11 prepared his medico legal report Ex.PW11/A. On police request. Ex. PJ, he made endorsement Ex.PW11/B regarding fitness of the patient to make statement. In the cross examination, the PW4 was asked only one question and he replied that the injuries on the person of Baljit Singh were accidental in nature.

19. The material witness in this case was injured Baljit Singh who was mentioned as a witness of the prosecution. His mother Jaswinder Kaur appeared in the court and made statement that due to this incident, Baljit Singh had lost his memory and was not fit to make a statement. On the basis of this statement of Jaswinder Kaur, this witness was given up by the prosecution.

20. As regards the defence Chamkaur Singh DW1 deposed that he

was a land owner and he had appointed 2-3 siris (servants) for cultivation. Accused Bhola Singh was working as his Siri (Servant) in his fields for the last six years. The accused did not know how to drive the tractor nor did the accused have any license to drive a commercial vehicle. DW1 further claimed that the accused had never worked as a driver of any person and nor had the accused caused any accident he was innocent.

21. Iqbal Singh DW2 deposed that he was working as a Siri with one Kirpal Singh. He knew Chamkaur Singh DW1 and the present accused. The DW2 further deposed that the accused was working with Chamkaur Singh. He had no knowledge, if the accused had any driving License or not. He deposed that he had never seen the accused driving a jeep. He stated that the accused was innocent and he had been falsely implicated.

22. The prosecution witnesses namely Kaka Singh PW2 and Hari Singh PW3 have categorically deposed on oath that they were following Arjan Singh on the fateful day and in their presence, the jeep driven by accused Bhola Singh rammed into it in their presence. No material discrepancy has been found in their statements and therefore the presences of both these witnesses at the spot stands duly established. The driving license of the accused has also been brought on record. The driving license of the accused in itself falsifies the defence version narrated by him and his witnesses. Except the oral statement, no convincing evidence has been brought on record by the accused and his witnesses to prove that he (the accused) was working as Siri in the agricultural land of Chamkaur Singh DW1. The story put forth by the defence version appears to have been afterthought and it is not sufficient to discard the cogent and convincing prosecution evidence.

23. Therefore, quite apparently, due to the rash and negligent

driving of the jeep, the accident occurred which resulted into the death of Arjan Singh and Baljinder Kaur and suffering of severe injuries by Baljit Singh. The ocular version narrated by the prosecution witnesses is finding corroboration from the medical evidence. It is evident from oral evidence and the site plan that the scooter was going on its left hand and the jeep rammed into it on its right side.

24. In view of the above discussion, I find no merit in the petition and the same stands dismissed.

25. 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.”*

26. It may be reiterated here that 02 persons have lost their lives. However, the custody certificate would reveal that the petitioner does not have criminal antecedents. Therefore, in the peculiar facts and circumstances of the case including the fact that the occurrence pertains to the year 2002 and more than 23 years have passed ever since then, subject to the payment of the fine as imposed and payment of Rs.1 Lac each as compensation to be paid to the legal heirs of both the deceased, the sentence of the accused/petitioner is reduced to a period of 09 months.

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

(JASJIT SINGH BEDI)
JUDGE

May 22, 2025
Vinay

<i>Whether speaking/reasoned</i>	<i>Yes/No</i>
<i>Whether reportable</i>	<i>Yes/No</i>