

2025:PH-HC:054869



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

CRR-2021-2010(O&M)

Date of Decision:-29.04.2025

Parminder Kumar @ Kaka.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

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

Present:- Mr. Rajeev Dev Sharma, Advocate for the Petitioner.

**Mr. Prabhdeep Singh Dhaliwal, Assistant Advocate General,
Punjab.**

JASJIT SINGH BEDI, J.(ORAL)

The present revision petition has been filed impugning the judgment dated 10.04.2010 passed by Additional Sessions Judge, Gurdaspur whereby the appeal filed against the judgment of conviction and order of sentence dated 12.05.2007 passed by Judicial Magistrate Ist Class, Pathankot has been dismissed.

2. The FIR in the present case came to be registered on 13.10.2001. The judgment of conviction was passed on 12.05.2007 by the Judicial Magistrate Ist Class, Pathankot. The Appeal filed against the order of conviction was dismissed on 10.04.2010 by the Additional Sessions Judge, Gurdaspur. The instant revision petition was filed on 27.07.2010 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. In brief, the case of prosecution is that on 12.10.2001, ASI

Lakhwinder Singh along with other police officials during patrolling was present at a point Jugial. One Query was received from Ranjit Sagar Dam Hospital, pertaining to the death of Sham Lal due to an accident. ASI Lakhwinder Singh along with other police officials went to the hospital. No eye witness to the occurrence met them there. On 13.10.2001, ASI Lakhwinder Singh along with other police officials again went to the said Hospital. Jagdish Raj son of Khoju Ram, Caste Goldsmith, r/o Shahpur Kandi met them there and got his statement recorded that on 12.10.2001 his son Sham Lal, was going on his scooter No.PB-35-A-0332 from Shahpur Kandi to Adial. He was going on another scooter along with Surinder Sapolia s/o Balram Sapolia r/o Shahpur Kandi behind his son. At about 3.30 P.M. when they reached at T. point Ravi Sadan, Shahpur Kandi, Sham Lal was turning his scooter towards Ravi Sadan, when one Van bearing No.DL-CC-9599 came from the side of Ravi Sadan being driven rashly and negligently by Parminder alias Kaka s/o Nathu Ram of Shahpur Kandi. He turned his Van towards Shahpur Kandi and struck the scooter of his son. Sham Lal fell down on the ground, suffered a number of injuries and his scooter was damaged. The driver of the van fled away from the spot. In the mean time, many people gathered there. Then, they took Sham Lal in a serious condition to Ranjit Sagar Dam Hospital in a Jeep. His son Sham Lal expired there. The accident took place due to the rash and negligent driving of Parminder alias Kaka of Van bearing No.DL.1CC-9599. The respectables of the village tried to get the matter compromised but all in vain. After recording the statement of the complainant, formal FIR was got registered and investigation was conducted by ASI, Lakhwinder Singh. On 17.10.01, Parminder Singh alias Kaka was arrested. Further investigation was conducted by ASI Karam Singh. After completion of the investigation, the

Challan against the accused was presented in the court under section 304-A/427 IPC.

4. Charge under section 304-A IPC was framed against the accused.

5. The prosecution examined PW1 Jagdish Raj, complainant/eye witnesses, PW2 ASI Karam Singh, the Investigating Officer, PW3 Naresh Kumar, Photographer, PW4 Surinder Sapolia, eye witness, PW-5 Dr. Indu Mahajan, PW6 H.C. Surinder Kumar No. 626, PW7 ASI Lakhwinder Singh, Investigating Officer, PW8 Kaptan Singh and PW9 Dr. Veena Sharma.

6. In his statement under section 313 Cr.P.C., all the incriminating evidence appearing against the accused was put to him. He pleaded innocence and claimed false implication.

7. Based on the evidence led, the accused/petitioner came to be convicted and sentenced by the court of Judicial Magistrate Ist Class, Pathankot 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
Section 304-A IPC	RI 02 Years	Rs.2000/-	RI for 03 Months

8. The accused/petitioner preferred an appeal which came to be dismissed by the Court of Additional Sessions Judge, Gurdaspur, vide judgment dated 10.04.2010.

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

10. During the pendency of the instant revision petition, the sentence of the accused/petitioner was suspended vide order dated 21.09.2010.

11. The Counsel for the accused/petitioner contends that there is a significant delay in the registration of the FIR. The occurrence took place

on 12.10.2001 whereas the FIR was registered on 13.10.2001. This delay is fatal to the prosecution case. The eye witnesses are most interested witnesses. Jagdish Raj is the father of the deceased Sham Lal whereas Surinder Sapolia the other eye witness belongs to the same village. These witnesses have been planted by the prosecution and were not actually present at the place of the accident. He thus contends that the impugned judgments are liable to be set aside and the accused be acquitted of the charges framed against him. 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 2001 and the case had come up for final hearing now after a gap of more than 23 years, the accused 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 placed on record the custody certificate dated 28.04.2025. He contends that the case of the prosecution stands established beyond reasonable doubt. The delay in the registration of the FIR stands well established. PW-1 Jagdish Raj complainant/eye witness of the occurrence and Surinder Sapolia PW-4 have clearly described the manner in which the occurrence has taken place. He thus contends that no fault can be found with the impugned judgments.

13. I have heard counsel for the parties.

14. As far as the delay in lodging the FIR is concerned, from the prosecution version it is absolutely clear that the police got information regarding the accident and death of Sham Lal on 12.10.01. ASI Lakhwinder Singh alongwith other police officials had gone to R.S. Dam Hospital, but no eye witness to the accident was there. On next day, he met Jagdish Raj,

father of the deceased and the eye witness who saw the accident and got recorded his statement. In this situation the delay in lodging the FIR cannot be considered to be a fatal one. In normal course when a person dies in the family, the family members remain busy with the performing of his last rites. So the delay of one day is not fatal to the case of prosecution.

15. PW1 Jagdish Raj, the complainant/eye witness of the occurrence has fully supported the prosecution version and stated that on 12.10.2001, his son Sham Lal was going on a scooter bearing No.PB-35A-0332 from the side of Shahpur Kandi to village Adial. He, (complainat), PW1 alongwith Surinder Sapolia were following his son. At about 3.30 P.M. when they reached near Ravi Sadan T. Point Shahpur Kandi, Sham Lal was turning his scooter and one Van bearing No.DL.ICC/9599 came from the side of Ravi Sadan being driven by Parminder accused whom he knew personally which struck the scooter of his son. The van was being driven rashly and negligently. His son suffered injuries and he was taken to RS Dam Hospital where he expired. He proved his statement Ex.PA made before the police he also identified the van involved in the accident in the photographs, mark A.B.C. He also proved recovery memo Ex.PB.

16. The version of PW1 gets corroboration from the statement of PW-4 Surinder Sapolia the other eye witness. Both these witnesses were cross examined at length but nothing significant could be elicited therein. Both these witnesses duly identified the accused in the court and proved that he was driving the van at the time of the accident rashly and negligently, caused the accident due to which Sham Lal expired.

17. Merely because PW-1 is the father of the deceased, whereas PW4 is resident of the village of the deceased, their testimonies cannot be disbelieved.

18. Their statements are natural and corroborative to each other and they cannot be said to be planted witnesses.

19. PW.3 Naresh Kumar, photographer proved negatives Ex.P-1 to P4 and photographs Ex.P5 to PB pertaining to the accident which clearly prove that the Van bearing No. DL.1CC-9599 was involved in the accident in question.

20. PW6 H.C. Surinder Singh proved his mechanical report pertaining to scooter No.PB/35A-0332 Ex.W6/A and his mechanical report pertaining to Van No.DL.1-CC-9599 Ex. PW6/B. The report Ex. PW6/B clearly reveals that the Van suffered damage because of the accident and the scooter PB-35A/0332 was also damaged.

21. PW8 Kaptan Singh, owner of the Van No.DL-I-CC-9599 stated that he had given the Van on 12.10.2001 to Parminder Kumar for repair and due to that reason the accused was in possession of the Van at the time of the accident.

22. PW.5 Dr. Indu Mahajan proved the photo copy of Postmortem report of Sham Lal Ex.PX and PW9 Dr. Veena Sharma was examined regarding the admission of Sham Lal s/o Jagdish Raj in the hospital.

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

24. 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.”*

25. Admittedly, the occurrence pertains to the year 2001 and more than 23 years have passed ever since then. A perusal of the custody certificate of the accused/petitioner would show that there is no other case of similar nature. 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. 05 months and 18 days.

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

(JASJIT SINGH BEDI)
JUDGE

April 29, 2025
Vinay

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