

**CRR-2257-2010(O&M)**

#1#

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH****CRR-2257-2010(O&M)****Date of Decision:-10.01.2025****RASHEED****.....Petitioner****VERSUS****STATE OF HARYANA & ANOTHER****.....Respondents****CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI**

Present:- Mr. Karan Pathak, Advocate
for the Petitioner.

Mr. Ravish Kaushik, Addl. AG, Haryana.

JASJIT SINGH BEDI, J.

The present revision petition has been filed impugning the judgment dated 26.07.2010 passed by the Additional Sessions Judge, Nuh whereby the appeal filed against the judgment of conviction and order of sentence dated 26/28.07.2008 passed by the Judicial Magistrate, 1st Class, Ferozepur has been dismissed.

2. The FIR in the present case came to be registered on 04.02.2001. The judgment of conviction was passed on 26/28.07.2008 by the Judicial Magistrate, 1st Class, Ferozepur. The appeal filed against the order of conviction was dismissed on 26.07.2010 by the Additional Sessions Judge, Nuh. The instant revision petition was filed on 16.08.2010 and has come up for final hearing now i.e. after a period of more than 23 ½ years from the date of registration of the FIR.

3. In brief the prosecution case is that on 04.02.2001 at about 10.30 AM, PW1-Rehmat with his nephew Ikramuddin and son Mohd. Ahsan

**CRR-2257-2010(O&M)****#2#**

were going from their village Rajaka to Nagina on bicycles. Ikramuddin was sitting on the rear seat of the bicycle of Mohd. Ahasan. PW1-Rehmat was following them on another bicycle. When they reached about 50 metres ahead from Maharishi Dayanand Gurukul in the area of village Bhadas, in the meantime one Tata-407 bearing Registration No.HR38-C-9164 driven by Rashid accused/petitioner rashly and negligently came from behind and struck the bicycle of Ikramuddin. Mohd. Ahsan fell on the berm of the road and suffered minor injuries. Ikramuddin fell on the metalled road and the four wheeler bearing No.HR38C-9164 ran over him died at the spot. The accused/petitioner ran away leaving behind the four wheeler. On statement Ex.PA made by PW1-Rehmat, FIR No.12 dated 04.02.2001, under Sections 279, 337 and 304-A IPC was recorded at Police Station Nagina.

4. After completion of investigation and other formalities, challan under Section 173 Cr.P.C. was prepared and presented in the Court for putting the accused/petitioner on trial.

5. When the prosecution was asked to lead evidence the prosecution in all examined seven witness namely, PW1-Rehmat complainant eye-witness, PW2-Jaikam Khan, Photographer, PW3-Juber (formal witness), PW4-Sirajudin (formal witness), PW5-Rajinder Singh witness of memos Ex.PW5/A and Ex.PW5/B, PW6-Ahsan eye-witness and PW7-ASI Nahar Singh. Thereafter, the prosecution evidence was closed.

6. When the accused/petitioner was examined under Section 313 Cr.P.C., the evidence available on record was put to him wherein he once again denied the allegations and pleaded false implication but did not lead any evidence.



CRR-2257-2010(O&M)

#3#

7. Based on the evidence led, the accused/petitioner came to be convicted and sentenced by the Court of Judicial Magistrate, 1st Class, Ferozepur vide judgment and order of sentence dated 26/28.07.2008 as under:-

Offence Section	under	Sentence RI/SI	Fine	RI/SI in default of payment of fine
279 IPC		RI for 06 months	Rs.1000/-	SI for 15 days
337 IPC		RI for 06 months	Rs.500/-	SI for 15 days
304-A IPC		RI for 02 years	Rs.10,000/-	SI for 03 months

8. The accused/petitioner preferred an appeal which came to be dismissed by the Court of Additional Sessions Judge, Nuh vide judgment dated 26.07.2010.

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 by this Court vide order dated 27.09.2010.

11. The counsel for the accused/petitioner contends that the judgment of conviction and order of sentence was passed on the basis of conjectures and surmises. The doctor who conducted the postmortem examination was not examined and therefore, the cause of death could not be established. The Investigating Officer was also not examined because of which various aspects of investigation remain unproved. Only two eye-witnesses namely, PW1-Rehmat and PW6-Ahsan were examined who were related to the deceased and were otherwise not injured in the accident which makes their presence doubtful. In fact, the identification of the accused/petitioner was not established as per law. The case is based on

*CRR-2257-2010(O&M)*

#4#

hearsay evidence as the complainant was only told about the occurrence. 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 23 ½ years, the accused/petitioner may be released on probation subject to payment of compensation.

12. The Counsel for the State on the other hand has filed a custody certificate of the accused/petitioner dated 09.01.2025 and the same is taken on record. He contends that the evidence on record was sufficient to establish the culpability of the accused/petitioner. The prosecution witnesses had deposed 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 statement of PW1-Rehmat and PW6-Ahsan cannot be disbelieved. They have specifically described the manner in which the occurrence took place and that the accused/petitioner was driving the vehicle in a rash and negligent manner. Their statements have been corroborated by PW2-Jaikam Khan, PW3-Juber, PW4-Sirajudin and PW5-Rajinder Singh. The non-examination of the doctor who conducted the postmortem examination has little relevance in view of the fact that it has been proved beyond doubt that the death of the deceased took place on account of the accident as per the PMR. Therefore, I find no infirmity in the judgments of



CRR-2257-2010(O&M)

#5#

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 :

- 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 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.



CRR-2257-2010(O&M)

#6#

- 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 2001 and as many as 23 ½ years have passed ever since then. 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. 02 months and 05 days.

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

(JASJIT SINGH BEDI)
JUDGE

January 10, 2024
Jitesh

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No