

2025:PHHC:058281



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

CRR-2539-2010(O&M)

Date of Decision:-05.05.2025

Malkiat Singh.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

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

Present:- Mr. Kuldeep V. Singh, Advocate with
Ms. Neeru Bansal, Advocate Amicus Curiae for the Petitioner.

Mr. Harkanwar Jeet Singh, Asstt. Advocate General, Punjab.

JASJIT SINGH BEDI, J.(ORAL)

The present revision petition has been filed impugning the judgment dated 17.08.2010 passed by Additional Sessions Judge, Patiala whereby the appeal filed against the judgment of conviction and order of sentence dated 11.08.2007 passed by Additional Chief Judicial Magistrate, Patiala has been dismissed.

2. The FIR in the present case came to be registered on 15.06.2002. The judgment of conviction was passed on 11.08.2007 by the Additional Chief Judicial Magistrate, Patiala. The Appeal filed against the order of conviction was dismissed on 17.08.2010 by the Additional Sessions Judge, Patiala. The instant revision petition was filed on 14.11.2010 and has come up for final hearing now i.e. after a period of more than 22 years from the date of registration of the FIR.

3. In brief, the case of the prosecution is that on 15.06.2002,

complainant Balbir Singh son of Rachhpal Singh, resident of H.No.1205, Mohalla Gurnampura, Sangrur, got recorded his statement Ex. PD with the police whereby he disclosed that he was working as a Teacher at Gen. Gurna Singh, Public School, Sangrur. On 15.6.2002, he was returning from Chandigarh to Sangrur on his scooter bearing registration No. PB-13C-1100. When he reached little reached short of Village Muradpur, Manmohan Singh son of Jit Singh overtook him on his motorcycle bearing registration No. PB-13H-8999. At about 4.30 AM when the complainant reached at a distance of about 2 killa from Muradpur and Manmohan Singh son of Jit Singh was going little ahead of him, one four-wheeler was standing parked on the road. Two vehicles came from the opposite direction which were proceeding from Patiala to Rajpura. Due to head light of the said vehicles, Manmohan Singh could not see the four-wheeler parked on the road and struck against it. As a result, Manmohan Singh fell down from his motorcycle. The complainant also reached at the spot and saw that Manmohan Singh son of Jit Singh, who had been his student, died at the spot and his motorcycle also destroyed completely. Thereafter, the complainant, leaving the dead body of the deceased at the spot, went to Sangrur to inform his parents. The accident took place due to the wrong parking of the four wheeler bearing registration No. HR-21-6227 by its driver on the road without any signal or indicator.

4. On the basis of the statement Ex. PD of complainant Balbir Singh, which was recorded by HC Pawan Kumar ruqa EK.PW7/A was sent to the police station, and a case was registered under Section 203/3048/427 IPC vide FIR Ex. PW7/B. Thereafter the investigating officer visited the spot and prepared the rough site plan of the place of accident. Inquest report of the deceased Ex.PW7/C was prepared. The body of the deceased was sent

for post mortem examination. The motorcycle of the deceased bearing registration No. PB-13H-8999 was taken into possession along with RC vide recovery memo Ex. PW7/D. The four-wheeler bearing registration No. HR-21-6227 was also taken into possession vide recovery memo Ex. PW7/E. Registration certificate of the said vehicle was also seized vide recovery memo Exz.PWB/B. Statements of witnesses were recorded. The accused was arrested on 13.12.2002 and his driving licence was also taken into possession vide recovery memo Ex. PW8/C. Personal search memo of the accused Ex. PWB/A was prepared. The vehicles were got tested from the Mechanical expert and after completion of necessary formalities of investigation challan against the accused was presented in court for trial.

5. Charges were framed against the accused u/s 283/304A/427 IPC. The accused pleaded not guilty and claimed trial.

6. At the trial, the prosecution examined the following witnesses:

i) PW1 Bhullar, D.S. Dr. Medical Officer, deposed that on 15.6.2002 he conducted the post mortem examination on the body of deceased Manmohan Singh. He proved on record his report Ex.PA.

ii) PW2 Rattan Singh, Clerk in office of District Transport Officer deposed that the motorcycle bearing registration No. PB-13H-8999 was registered in the name of Jit Singh son of Hari Singh resident of Guru Nanak Colony, Sangrur and the copy of the register containing Ex. PB. the entry is Ex.PB.

iii) PW3 Rakesh Kumar deposed that on 15.6.2002, he visited the site of the accident near Vill. Muradpur on Patiala-Rajpura road and took photographs of the vehicles at the spot. The photographs are Ex. P-1 to Ex.P-8 and negatives are Ex.P-9 to Ex.P-16. The photographs and negatives were handed over to the police and the same were taken into possession vide

recovery memo Ex. PC, which was attested by him.

iv) PW4 Balbir Singh, deposed that on 15.6.2002 he was coming from Chandigarh to Sangrur on his scooter Bajaj Chetak bearing registration No. PB-13C-1100. At about 4.00 am Manmohan Singh son of Jit Singh was also going on the road on his motorcycle No. PB-13H-8999 and he over took him. When they reached near village Muradpur a four wheeler was parked on the road. Two vehicles came from the opposite side and their headlights were on and due to the headlights of the said vehicles Manmohan Singh could not see the four wheeler which was parked on the road and collided with the same. Manmohan Singh had been a student. He sustained injuries on his head and died at the spot. He went to call his parents at Sangrur. The number of the four wheeler was HR-21-6227. Its parking light was not on. The accident took place due to the fact that the four wheeler had been parked in between the road without any indicator or parking light on. The driver of the four wheeler was standing near the four-wheeler at the time of the accident. This witness further identified the accused present in court to be the same person, who was the driver of the four wheeler and whom he had seen at the spot standing near the four wheeler. His statement Ex. PD was recorded by the police.

v) PW5 HC Piara Singh, deposed that on 16.6.23002 he mechanically tested Hero Honda motorcycle bearing registration No. PB-13H-8999 at PS Sadar, Patiala and gave his report Ex.PE. On the same day, he also mechanically tested the four wheeler bearing registration No. HR-21-6227 and submitted his test report Ex.PF. His statement was also recorded by the police.

vi) PW6 Harkirat Singh, Clerk, Office of District Transport Officer, Mansa, proved on record the driving licence of Malkiat Singh which is Ex.

PX.

vii) PW7 HC Pawan Kumar was the IO of this case. He deposed with regard to the investigation conducted by him. According to this witness, he met Balbir Singh and recorded his statement Ex. PB and on the basis thereof a case was registered vide FIR Ex. PW7/B. He called the photographer, who took photographs of the site of the accident which were subsequently taken into possession by the police vide recovery memo Ex.PC. He also prepared inquest report Ex.PW7/C. Body of the deceased was sent for post mortem examination. He also took into possession the motorcycle bearing registration No. PBH-13H-8999 along with its registration certificate vide recovery memo Ex.PW7/D. He further took into possession a four wheeler bearing registration No. HR-21-6227 vide recovery memo Ex.PW7/E, which was attested by HC Baldev Ran and Con. Rajinder Singh. The remaining investigation was handed over to HC Bahadur Ram.

viii) PW8 HC Bahadur Ram deposed that on 11.8.2002 he was posted at Police Post Bahadurgarh. During investigation of the case he arrested the accused on 13.12.2002, who was produced before him by Pawan Kumar Sharma son of Gurdial Chand. After personal search of the accused, he prepared personal search memo Ex.PW8/A. The registration certificate of Tata 608 was produced, which was taken into possession vide recovery memo Ex.PW8/B. On the same day, the accused also produced his driving licence, which was seized vide memo by photographer Rakesh Kumar into police possession vide memo Ex.PC.

7. The statement of the accused was recorded u/s 313 Cr.PC whereby he was confronted with all the incriminating circumstances appearing against him. He denied all the allegations against him and pleaded innocence and false implication. He tendered certified copy of statement of

Balbir Singh recorded during pendency of claim petition u/s 166 of the Motor Vehicle Act Ex.D1, certified copy of statement of Jit Singh Ex.D2, certified copy of statement of Pawan Kumar Ex.D3, certified copy of statement of Malkiat Singh Ex. D4 and certified copy of award dated 19.12.2006 Ex.D5 passed by learned Motor Accident Claims Tribunal, Patiala.

8. Based on the evidence led, the accused/petitioners came to be convicted and sentenced by the court of Additional Chief Judicial Magistrate, Patiala vide judgment and order of sentence dated 11.08.2007 as under:-

Offences under Section	Sentence	Fine	RI/SI in default of payment of fine
Section 304-A IPC	RI for 1-1/2 Years	Rs.1000/-	RI for 02 Months

9. The accused/petitioner preferred an appeal which came to be dismissed by the Court of Additional Sessions Judge, Patiala, vide judgment dated 17.08.2010 and maintained his conviction.

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

11. During the pendency of the instant revision petition, the sentence of the accused/petitioner was suspended vide order dated 15.11.2010.

12. The Counsel and the Amicus Curiae for the accused/petitioner contends that there is no evidence to connect the accused with the crime. He has not been identified and his name does not figure in the FIR. Even otherwise, the four wheeler was parked on the *kutchha berm* and the accused could not be held guilty because the accident had taken place due to the negligence of the deceased who himself had been driving his motor cycle at a very high speed and in a rash and negligent manner and could not see the

truck parked by the roadside. They thus contend that the impugned judgments were liable to be set aside. In addition, they contend 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 more than 22 years, the accused may be released on probation or his sentence be reduced to the period already undergone by him.

13. The Counsel for the State on the other hand has placed on record the custody certificate dated 29.04.2025. He contends that the prosecution witnesses have deposed consistently as to the manner in which the occurrence took place. There is no reason for them to have falsely implicated the accused. The offence stands established beyond reasonable doubt. He thus contends that the present petition was liable to be dismissed.

14. I have heard counsel for the parties.

15. The prosecution has established the guilt of the accused beyond reasonable doubt. Balbir Singh, PW-4 has categorically deposed that he was present at the spot when the accident took place as he was returning from Chandigarh on his scooter while the deceased Manmohan Singh was going on his Hero Honda Motorcycle, a little ahead of him when he met with an accident. It has also been categorically stated by this witness that the four wheeler bearing registration No. HR-21-6227 had been parked by the accused on the road without its parking lights on and due to this the deceased could not see the said vehicle as two vehicles were coming on opposite side with their lights on. All these facts have not been controverted, in the cross-examination. It is a settled proposition of law that if the statement of a witness is not controverted in the cross-examination it is

deemed to have been admitted as correct by the opposite party. The statement of this witness has gone almost uncontroverted. Balbir Singh also stated that the accused was present at the spot near the parked four-wheeler and he had identified him. Thus, merely because no test identification parade was held in this case, it cannot be said that the identity of the accused has not been established.

16. In view of the aforementioned discussion, I find no merit in the present petition and the same stands dismissed.

17. 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.”*

18. Admittedly, the occurrence pertains to the year 2002 and more than 22 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. 03 months and 02 days.

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

(JASJIT SINGH BEDI)
JUDGE

May 05, 2025
Vinay

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