

2025:PHHC:054292



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

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Date of Decision:- 28.04.2025

SURJAN SINGH

.....Petitioner

VERSUS

STATE OF PUNJAB

.....Respondent

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

Present:- Mr. Ramdeep Partap Singh, Advocate with
Mr. Aarav Gupta, Amicus Curiae
for the Petitioner.

Mr. Harkanwar Jeet Singh, Asstt. A.G., Punjab.

JASJIT SINGH BEDI, J.

The present revision petition has been filed impugning the judgment dated 08.02.2010 passed by the Additional Sessions Judge (Adhoc) Fast Track Court, Gurdaspur whereby the appeal filed against the judgment of conviction and order of sentence dated 05.07.2006 passed by the Judicial Magistrate, 1st Class, Batala has been dismissed.

2. The FIR in the present case came to be registered on 21.08.2000. The judgment of conviction was passed on 05.07.2006 by the Judicial Magistrate, 1st Class, Batala. The appeal filed against the order of conviction was dismissed on 08.02.2010 by the Additional Sessions Judge (Adhoc) Fast Track Court, Gurdaspur. The instant revision petition was filed on 25.02.2010 and has come up for final hearing now i.e. after a period of more than 24 ½ years from the date of registration of the FIR.

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3. In brief, the case of the prosecution is that ASI Jasbir Singh along with other police officials was present at Adda Qila Lal Singh in connection with patrolling duty when Shinda Masih son of Natha Mashih came there and his statement was got recorded to the effect that he was a resident of village Khusipur. On 21.08.2000 when he along with his brother Prem Masih and his son Surjit Masih were present in the area of Adda Bidhipur and Surjit Masih was boarding the bus bearing No.PB-06-1026 for Batala, he and his brother followed the bus on their scooter. At about 10.15 AM. the bus driver was driving the bus rashly and negligently and at a high speed. Suddenly one scooter came from the opposite side and the bus driver tried to save the scooterist and applied brakes and due to that the bus went into the paddy fields. He and other passengers pulled out Surjit Masih and others from beneath the bus. Surjit Masih got admitted at Civil Hospital, Batala where he died. The accident took place due to the driving of the bus by the driver in a rash and negligent manner. Upon the basis of the above said statement of the complainant, a ruqa was sent to the police station for registration of the case on the basis of which a formal FIR was registered against the accused persons.

4. Thereafter, the investigation started and ASI Jasbir Singh and other police officials reached at Civil Hospital, Batala where postmortem of the dead body of Surjit Masih was got conducted and after identification of the dead body, it was handed over to the legal heirs of Surjit Masih deceased. The site plan of the place of occurrence was prepared. The



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statement of the witnesses were also recorded. The accidented vehicle was taken into police possession through recovery memo. The documents of the vehicle were also taken into police possession. The accidented vehicle was got mechanically tested. After the completion of investigation, and other formalities of the case, the challan against the accused was presented in the Court under Sections 304A/279/337/338 IPC for trial.

5. On consideration of the challan and documents attached herewith, charges under Sections 304A/337/338 IPC were framed against the accused to which he pleaded not guilty and claimed trial.

6. In order to prove the guilt of the accused, the prosecution examined Shinda Masih as PW1 in examination-in-chief and thereafter he did not turn up for his cross-examination because of which his deposition could not be read in evidence. Satnam Singh was examined as PW2, HC Budh Singh as PW3, ASI Jasbir Singh as PW4, Dr. Jagdev Singh Chahal, Medical Officer, Civil Hospital, Batala as PW5, Gurcharan Singh as PW6 and Sarabjit Singh as PW7.

7. The accused was examined under Sections 313 Cr.P.C. He claimed false implication.

8. Based on the evidence led, the accused/petitioner came to be convicted and sentenced by the Court of Judicial Magistrate, 1st Class, Batala vide judgment and order of sentence dated 05.07.2006 as under:-

Offence under Section	Sentence RI/SI	Fine	RI/SI in default of payment of fine
304-A IPC	RI for 01 year	Rs.500/-	RI for 15 days
337 IPC	RI for 03 months	Rs.100/-	RI for 15 days



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Both the sentences were ordered to run concurrently

9. The accused/petitioner preferred an appeal which came to be dismissed by the Court of Additional Sessions Judge (Adhoc) Fast Track Court, Gurdaspur vide judgment dated 08.02.2010.

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 by this Court vide order dated 09.03.2010.

12. The counsel for the accused/petitioner contends that PW-1 Shinda Masih who was the main complainant of this case did not step into the witness box after recording his examination-in-chief. As such, his examination-in-chief could not be read into his evidence. PW-3 is a formal witness. PW-4 ASI Jasbir Singh, the Investigation Officer of this case, has not seen the accident. PW-5 Dr. Jagdev Singh Chahal is also a formal witness who has proved on the record the post-mortem report of deceased Surjit Masih and PW-6 Gurcharan Singh is the person who proved on the record test report Ex.PW-6/A. There are only two witnesses who are the eye witnesses of the accident i.e. PW-2 Satnam Singh and PW-7 Sarabjit Singh who have also not proved the case of the prosecution. PW-2 has admitted in his cross-examination that the bus driver had applied the brake just to save the scooterist who was coming from the side of Batala and bus was going towards the Batala and that it was a rainy day on the date of accident and

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one tyre of the bus had fallen in the pit on the road which could not be seen by the driver as it was filled with rainy water. When the driver of the bus applied brakes to save the scooterist then the tyre of the bus fell into the pit and the bus fell into the paddy field on the left side. A similar statement had been given at the time of cross-examination of PW-7. PW-7 had also stated that name of the driver was told by the police. He did not identify the accused person in the court. The counsel also pointed out some discrepancies between the statements of PW-2 and PW-7. He thus contends that the impugned judgments were liable to be set aside. 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 2000 and the case had come up for final hearing now after a gap of more than 24 ½ years, the accused/petitioner may be released on probation subject to payment of compensation.

13. The learned counsel for the State, on the other hand, has filed a custody certificate of the accused/petitioner dated 25.04.2025 and the same is taken on record. He contends that the evidence on record is sufficient to establish the culpability of the accused/petitioner. The prosecution witnesses have deposed consistently as to the manner in which the occurrence had taken place. There are no discrepancies in their statements as has been sought to be argued. Therefore, the present petition is liable to be dismissed.

14. I have heard learned counsel for the parties and examined the record.

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15. From a perusal of the evidence as led by the prosecution, no doubt the statement of PW-1 Shinda Masih who is the complainant of this case cannot be read into evidence as he did not turn up for his cross-examination after recording his examination-in-chief. However, there are two witnesses i.e. PW-2 Satnam Singh and PW-7 Sarabjit Singh. PW-2 Satnam Singh has specifically stated that on 21.8.2000 at about 9.30 A.M. he caught the bus bearing No.PB-06-1026 from his village for Batala and the accused was driving the bus at a high speed in a rash and negligent manner. Near village Dharamkot a scooter was also coming from the Batala side. Due to high speed of the bus, the bus went into the paddy field on the left side and due to that bus turned turtle into the paddy field. One passenger died and about two dozen passengers received injuries. His left leg was also broken in the accident. Similarly, PW-7 gave the same statement and specifically stated that his right arm was broken in the accident.

16. The arguments that the accused/driver of the bus applied the brake just to save the scooterist who was coming from the opposite side and due to that the bus turned turtle into the field of paddy and that if the bus driver had not applied the brake then there was a chance of greater loss of lives of passengers cannot be accepted. PW-2 and PW-7 have specifically stated that accused Surjan Singh was driving bus bearing No.PB-06-1026 in a very rash and negligent manner and at a high speed. The driver ought to have driven the bus on the public way in a cautious manner, so that he could apply the brakes in time. Thus, apparently, the driver of the bus Surjan Singh



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was not driving the bus with due care and caution.

17. PW-4 ASI Jasbir Singh also proved on record the statement of the complainant Ex. PA, his endorsement Ex. PA/1 and FIR Ex. PA/2 and also proved on the record site plan which was prepared by him after visiting at the spot of accident. He also proved on the record the application Ex.PD regarding post-mortem of the dead body of deceased Surjit Masih. The site plan of the place of accident Ex. PE was also proved on the record by this PW. After getting the post-mortem of the dead body of Surjit Masih conducted it was handed over to Shinda Masih against receipt Ex.PF. The bus bearing No.PB06-1026 was taken into police possession through recovery memo PW-5 Dr. J.S. Chahal, Medical Officer, Civil Hospital, Batala has proved on the record carbon copy of post-mortem of the dead body of Surjit Masih Ex.PW-5/A who has also stated that the cause of death in this case was due to haemorrhage and shock caused by roadside accident, multiple injuries.

18. From the above discussion, it is clear that PW2-Satnam Singh, PW4-ASI Jasbir Singh, PW5-Dr. Jagdev Singh Chahal, Medical Officer, Civil Hospital, Batala and PW7-Sarabjit Singh have fully proved the case of the prosecution.

19. 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.



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20. 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.



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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.”

21. Admittedly, the occurrence pertains to the year 2000 and as many as more than 24 ½ years have passed ever since then. A perusal of his custody certificate 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 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. 01 month and 04 days.

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

(JASJIT SINGH BEDI)
JUDGE

28.04.2025

Jitesh

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