

2025:PHHC:058326



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

CRR-777-2010(O&M)

Date of Decision:-05.05.2025

Virender Singh.

.....Petitioner.

Vs.

State of Haryana.

.....Respondent.

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

Present:- Mr. Abhaysher Singh, Advocate Amicus Curiae for the
Petitioner.

Mr. Viney Phogat, Deputy Advocate General, Haryana.

JASJIT SINGH BEDI, J.(ORAL)

The present revision petition has been filed impugning the judgment dated 25.02.2010 passed by Additional Sessions Judge, Narnaul whereby the appeal filed against the judgment of conviction and order of sentence dated 06/09.03.2009 passed by Additional Chief Judicial Magistrate, Narnaul has been dismissed.

2. The FIR in the present case came to be registered on 20.10.2003. The judgment of conviction and order of sentence was passed on 06/09.03.2009 passed by Additional Chief Judicial Magistrate, Narnaul. The Appeal filed against the order of conviction was dismissed on 25.02.2010 by the Additional Sessions Judge, Narnaul. The instant revision petition was filed on 09.03.2010 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. The prosecution case is that complainant Saraswati Devi vide

her application Ex. PW4/A dated 20.10.2003 informed the police that her husband (Birja Nand Maharaj @ Rajender Kumar) for the previous 3 to 4 years was living life of a Sadhu and stayed at a temple in village Bhuravas. She too was staying with her husband. She and her husband were coming to Narnaul in a Maruti Car bearing No. HR-26C-3177. The aforesaid car was being driven by Virender Singh. When they reached village Ateli, Virender Singh started driving the car at a fast speed in a rash and negligent manner. He was advised by the complainant and her husband to drive the car slowly but the aforesaid advice was not needed by him. At about 4.30/5.00 O'clock when they reached near Sheema Distributor the driver lost control of the car and the car collided with a tree. Injuries on the right hand, chest and the neck were sustained by her husband. He became unconscious. Minor injuries were also sustained by her and the driver. Her husband was taken to the Government Hospital Narnaul in a private vehicle, where he was declared dead. Her husband had died on the account of the fast, rash and negligent driving by Viender Singh. After the conclusion of the investigation the accused was sent up for Trial under Section 279/337/304A IPC.

4. On the basis of prosecution allegations a prima-facie case under sections 279/337/304-A IPC was made out. The accused was charged accordingly. He pleaded not guilty and claimed trial.

5. The gist of the testimonies of the witnesses is as under:-

Karan Singh PW-1 in his testimony stated that on 31.10.2003 a Maruti Car bearing No. HR-26C-3177 with the damaged engine and bonnet was taken into police custody.

PW-2 Mangal Ram stated that on 11.11.2003 a Maruti car bearing No. HR-26-C-3177 was mechanically examined by him. The report to the aforesaid mechanical examination was placed on record as Ex.

PW2/A.

PW-3 Ravinder Kumar stated that he came to know about the accident at about 6.00 O'clock. The offending vehicle in which his uncle and aunt were coming to Narnaul from Bhurthala was driven by the accused. His aunt told him that the accused was driving the vehicle at a fast speed. In his cross examination he stated that the accident was seen by him.

PW-4 Saraswati Devi stated that 3 to 4 days prior to the previous Diwali she and her husband from Bhuranath Ashram Bhorjavs were coming to the Narnaul in a Maruti Car which was being driven by the accused. In the area of the canal distributory of village Sihma the accused started driving the car at a fast speed. He did not listen to her request of driving the car slowly. He drove the car rashly and it collided with a Kikkar tree. Injuries were sustained by her, her husband and the driver. In the Hospital her husband was declared dead. The accused was identified by the complainant in the court. In her testimony she stated that her statement Ex. PW4/A was record in the hospital and it bore her thumb impression.

PW-5 Dr. Alok Jain in his testimony stated that information Ex. PW5/A regarding the accident was sent by him to police Station Sadar Narnaul.

PW-6 Head Constable Jai Singh in his testimony stated that 10.11.2003 the accused was arrested. The RC/DL/Insurance were taken into police custody vide Ex. PW6/A.

PW-7 Joginder Kumar in his testimony stated that on 20.10.2003 he came to know that his brother Rajender Kumar had died in an accident. He was coming to Narnaul from Bhurthala in a Maruti Van Bearing No. HR-26C-3177. PW7 in his cross examination stated that he was not present at the place of occurrence. The wife of his deceased brother has

told him about the driver.

PW-8 UGC Ram Niwas stated that Ex.PW6/A vide which the DL and RC were taken into custody was signed by him as a witness.

PW-9 Dr. Parshant Sharma stated that on 20.10.2003 he medico-legally examined Saraswati Devi. The report qua the said examination was placed on record as Ex.PW9/A. He further stated that on 21.10.2003 he conducted post mortem on the body of Rajender Kumar @ Birjanand Maharaj. The post mortem report was placed on record as Ex.PW9/B.

PW-10 Ram Niwas stated that car bearing No. HR-26C-3177 was taken by him on Superdari.

PW-11 Head Constable Virender Singh stated that on 20.10.2003 statement of Saraswati Ex. PW4/A was recorded by him. The FIR Ex. PW11/A was recorded by ASI Rajender Singh the site plan Ex. PW11/D was prepared.

PW 12 Jai Pal SI/SHO was given up by the APP vide his statement dated 10.12.2007.

6. The accused in his statement under Section 313 Cr.P.C. stated that he was innocent and had been falsely implicated.

7. Based on the evidence led, the accused/petitioners came to be convicted and sentenced by the court of Additional Chief Judicial Magistrate, Narnaul vide judgment and order of sentence dated 06/09.03.2009 as under:-

Offences under Section	Sentence	Fine	RI/SI in default of payment of fine
Section 279 IPC	RI for 06 Months	Rs.500/-	RI for 03 Months
Section 337 IPC	RI for 06 Months	Rs.250/-	RI for 03 Months
Section 304-A IPC	RI for 01 Year	Rs.1000/-	RI for 06 Months

All the aforesaid sentences were ordered to run concurrently.

8. The accused/petitioner preferred an appeal which came to be

dismissed by the Court of Additional Sessions Judge, Narnaul, vide judgment dated 25.02.2010 and maintained his conviction.

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 12.03.2010.

11. The Amicus Curiae for the accused/petitioner contends that the judgment of conviction is based on conjectures and surmises. The identity of the accused has not been established as per law. The number of the Maruti Car has not been mentioned in the FIR. 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 2003 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.

12. The Counsel for the State on the other hand has placed on record the custody certificate dated 02.05.2025. 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. He thus contends that the present petition was liable to be dismissed.

13. I have heard counsel for the parties.

14. The argument that in the instant case, the prosecution has failed to establish the identity of the accused is without substance. Complainant

Saraswati Devi PW4 along with her husband boarded the Maruti Car driven by the accused for going to Narnaul. Therefore, the complainant PW4 in her testimony has categorically stated that the Maruti Car was being driven by the accused. Therefore, the prosecution has succeeded in establishing the identity of the accused.

15. Merely because that PW4 in her testimony has not stated the number of the Maruti Car cannot weaken the prosecution case. PW4 in no uncertain terms has categorically stated that the offending Maruti Car was driven by the accused at a fast speed and in a rash manner. The number of the offending Maruti Car was HR-26C-3177 and has been brought on record by Karan Singh PW1 who in his testimony stated that the Maruti Car bearing No. HR-26C-3177 with a damaged engine and bonnet was taken into police custody.

16. Thus the prosecution has succeeded in establishing that the accused committed the accident by driving the Maruti Car at a fast speed and in a rash and negligent manner. By the aforesaid rash and negligent driving he caused the death of Birjanand Maharaj @ Rajender Kumar and also caused hurt to Saraswati Devi PW4. The injuries which were suffered by Saraswati Devi PW4 in the accident have been brought on record by Dr. Prashant Sharma PW9 with the help of medico legal report Ex. PW4/A. PW9 has also brought on record the death of Brijanand Maharaj @ Rajender Kumar with the help of the post mortem report Ex. PW9/B.

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

18. 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.”

19. Admittedly, the occurrence pertains to the year 2003 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. 09 months and 08 days.

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

(JASJIT SINGH BEDI)
JUDGE

May 05, 2025
Vinay

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