

2025.PHHC.0533.6



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

**CRR-829-2010(O&M)**

**Date of Decision:-25.04.2025**

**Kulwant Singh.**

.....Petitioner.

Vs.

**State of Punjab.**

.....Respondent.

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

**Present:- Mr. K.B.S. Mann, Advocate for the Petitioner.**

**Mr. Harkanwar Jeet Singh, Assistant Advocate General, Punjab.**

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**JASJIT SINGH BEDI, J.(ORAL)**

The present revision petition has been filed impugning the judgment dated 19.01.2010 passed by Sessions Judge, Muktsar whereby the appeal filed against the judgment of conviction and order of sentence dated 12.12.2008 passed by Judicial Magistrate Ist Class, Malout has been dismissed.

2. The FIR in the present case came to be registered on 31.03.2002. The judgment of conviction was passed on 12.12.2008 by the Judicial Magistrate Ist Class, Malout. The Appeal filed against the order of conviction was dismissed on 19.01.2010 by the Sessions Judge, Muktsar. The instant revision petition was filed on 15.03.2010 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. Briefly stated the case of the prosecution is that on 31.03.2002 Mahi Pal son of Tirlok Chand resident of Mandi Haji Ram, Malout, came

present before ASI Satpal Singh and suffered his statement to the effect that he and Munesh Kumar son of Pawan Kumar Aggarwal, resident of Mandi Harji Ram, Malout, on their car No. HR25 3435, on the said date, at about 1.00 pm, were going towards village Midda. In front of them, on the left side, Sanjiv Kumar son of Tejpal, Viney Kumar son of Suresh Kumar Aggarwal and Satish Kumar son of Tej Pal, residents of Malout, were going to attend the ceremony of Shatti' of grand-son of Pardhan Singh resident of Midda on a Scooter. When they reached the revenue estate of village Malout, at about 1/2 kilometer, then a jeep bearing no.HR-24B 3363 came in a zigzag manner on the wrong side and it struck the scooter going in front of them with the result that the said three persons on the Scooter fell down. On the other hand the jeep turned towards the fields. He and Munesh Kumar found that Sanjiv Kumar and Satish Kumar were unconscious whereas Viney Kumar had received injuries. They took them as well as the driver of the Jeep Kulwant Singh son of Sohan Singh resident of village Therri in their Car to the Civil Hospital, Malout, for treatment. Sanjiv Kumar died during the way and Satish Kumar and Viney Kumar were referred to D.M.C.H., Ludhiana. On the said statement the case in hand was registered. After the conclusion of the investigation the challan report under section 173 Cr.P.C. was filed in the Court against the accused.

3. On finding a prima facie case, accused was charge sheeted under section 279, 337, 338 and 304-A IPC to which he pleaded not guilty and claimed trial.

4. In order to prove its case the prosecution examined PWI Dr. S.S.Mallu, who proved the Post mortem report of Sanjiv Kumar deceased, PW-2 Mahi Pal complainant, PW-3 Satish Kumar, PW-4 HC Gurlal Singh, PW-5 ASI Satpal Singh, PW-6 HC Daljit Singh, PW-7 constable Harvinder

Singh, PW-8 Bibhas Singla, PW-9 Dr. A.K.Chaudhary Associate Professor of Neuro Surgery, DMC, Ludhiana, and thereafter the evidence of the prosecution was closed.

5. On conclusion of evidence, the accused was examined under Section 313 of the Cr.PC. He denied the allegations of the prosecution case and explained in his statement that he was innocent and had been falsely involved in the case. Satish Kumar and deceased Sanjiv Kumar had struck the scooter behind the jeep.

6. Based on the evidence led, the accused/petitioner came to be convicted and sentenced by the court of Judicial Magistrate Ist Class, Malout vide judgment and order of sentence dated 12.12.2008 as under:-

| Offence under Section | Sentence         | Fine      | RI/SI in default of payment of fine |
|-----------------------|------------------|-----------|-------------------------------------|
| Section 279 IPC       | RI 06 Months     | Rs.200/-  | RI for 02 days                      |
| Section 337 IPC       | RI for 06 Months | Rs.300/-  | RI for 02 days                      |
| Section 304-A IPC     | RI for 01 Year   | Rs.1000/- | RI for 04 Days                      |

7. The accused/petitioner preferred an appeal which came to be dismissed by the Court of Sessions Judge, Muktsar, vide judgment dated 19.01.2010 and all the sentences imposed by the Trial Court were ordered to run concurrently.

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

9. During the pendency of the instant revision petition, the sentence of the accused/petitioner was suspended vide order dated 09.07.2010.

10. The Counsel for the accused/petitioner contends that the courts below have not appreciated the evidence on record in its proper perspective. The conviction is based on the sole testimony of one witness who is an interested witness. The identity of the accused has not been established in

accordance with law. There is no evidence of rash and negligent driving on the part of the accused. He therefore contends that the petition be allowed 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 2002 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.

11. The Counsel for the State on the other hand has placed on record the custody certificate dated 24.04.2025. He contends that the statement of PW-2 Mahipal cannot be discarded only on account of the fact that he is a relative of deceased Sanjeev Kumar. His presence at the spot is established from the record as he had helped in removing the accused to the hospital from the accident spot. There is no motive for this witness to have falsely implicated the accused. The identity of the accused stands established beyond doubt. The rash and negligent driving on the part of the accused is also established by the prosecution. Therefore, the present revision petition was liable to be dismissed.

12. I have heard counsel for the parties.

13. From the evidence on record it is apparent that the accident took place on account of the rash and negligent driving of the accused. His identity stands established beyond doubt as he was taken to the hospital by the complainant. Merely, because the witness in question happens to be a relative of the deceased is no ground to discard his testimony when it is clear and consistent.

14. In view of the above discussion, I find no merit in the petition and the same 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 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.”*

16. Admittedly, the occurrence pertains to the year 2002 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. 06 months and 09 days.

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

( JASJIT SINGH BEDI )  
JUDGE

April 25, 2025  
Vinay

|                           |        |
|---------------------------|--------|
| Whether speaking/reasoned | Yes/No |
| Whether reportable        | Yes/No |