

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

243

2025:PHHC:179235



CRR- 4849-2016 (O&M).
Date of decision: 16.12.2025

GURPAL SINGHPetitioner

VERSUS

STATE OF PUNJABRespondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

Present: None for the petitioner
ASI Deepak, Pairvi Officer for the State of Punjab

VINOD S. BHARDWAJ. J.(Oral)

Lawyers are abstaining from work on account of a call from
the High Court Bar Association.

The present revision petition has been preferred against the
judgment of conviction and order of sentence dated 01.09.2016, passed by
the Additional Chief Judicial Magistrate, Sri Muktsar Sahib, whereby the
petitioner had been convicted in case bearing FIR No.91 dated 16.10.2013
registered under Sections 279, 337, 338, 427 and 304-A of the IPC at
Police Station, Sadar Sri Muktsar Sahib and sentenced as follows:

Under Section	Sentence
304-A IPC	To undergo R.I. for two years and

	to pay fine of Rs.2000/- and in default of payment of fine to further undergo R.I. for 30 days.
279 IPC	To undergo R.I. for six months and to pay fine of Rs.1000/- and in default of payment of fine to further undergo R.I. for 7 days.
337 IPC	To undergo R.I. for six months and to pay fine of Rs.500/- and in default of payment of fine to further undergo R.I. for 7 days.
338 IPC	To undergo R.I. for two years and to pay fine of Rs.1000/- and in default of payment of fine to further undergo R.I. for 30 days.
427 IPC	To undergo R.I. for one year and to pay fine of Rs.1000/- and in default of payment of fine to further undergo R.I. for 15 days.

Challenge is also to the judgment dated 28.11.2016 passed by the Sessions Judge, Sri Muktsar Sahib, whereby the appeal against the judgment of conviction and order of sentence dated 01.09.2016 was dismissed.

Briefly summarized, the facts of the present case are that the

complainant Jagjit Singh (son of Gurmeet Singh) stated that he had been pursuing an MBA course from Bhai Mahan Singh College, Sri Muktsar Sahib and his maternal uncle (mama) Harpal Singh (son of Balroop Singh) had come to meet them at their village. On 15.10.2013, he, along with his maternal uncle Harpal Singh, his cousin Jaskaran Singh (son of Harnek Singh), went to Muktsar on their motorcycles. Jaskaran Singh and Harpal Singh were returning to their house after completing their work on a red Hero Honda Splendor Plus, bearing registration No. PB-30D-4672 and the said motorcycle was being driven by Jaskaran Singh, with Harpal Singh as the pillion rider. The complainant was driving the motorcycle bearing No. PB-05N-4894 while one Ganga Singh was the pillion rider. At about 8:00 PM, the motorcycle driven by Jaskaran Singh reached near the Tiles factory, Bura Gujar Road. Then a tractor make HMT-3511, towing a paddy-filled trolley and driven by a turbaned person in a rash and negligent manner, hit the motorcycle of his paternal uncle's son and both Jaskaran and Harpal fell and suffered multiple injuries. An ambulance was called both Jaskaran and Harpal passed away before reaching the hospital. Thereafter, the present FIR came to be registered against the driver of the Tractor, that is, the petitioner herein.

During the course of the investigation, the accused was formally arrested and the offending tractor-trolley as well as the motorcycle were taken into possession. On completion of the procedural compliances, parties led their respective evidence. The prosecution examined PW-1 Jagjit Singh (Complainant); PW-2 HC Baldev Singh; PW-3 SI Dharam Pal (Investigating Officer); PW-4 HC Satish Kumar;

PW-5 Ganga Singh, eyewitness; PW-6 Neeraj Kumar (Clerk, DTO Office, Sri Muktsar Sahib) and Dr. Surinder Kumar (Medical Officer, Civil Hospital, Sri Muktsar Sahib). The evidence was thereafter closed as the prosecution failed to conclude its entire evidence despite availing sufficient opportunities in this regard.

The entire evidence was put to the petitioner and his statement under Section 313 Cr. P.C. was recorded. He denied the same but led no evidence in defence.

On consideration of the evidence and hearing the arguments, the Additional Chief Judicial Magistrate, Sri Muktsar Sahib, convicted the petitioner vide judgment dated 01.09.2016 and sentenced him as mentioned above. Appeal against the order of conviction & sentence was dismissed by the Sessions Judge, Sri Muktsar Sahib, vide judgment dated 28.11.2016. Hence, the present petition.

It is averred in the petition that the Courts below did not consider that negligence or rashness on the part of the petitioner was not exhibited, explained or proved on record. In the absence of evidence to establish negligence or rashness in driving, the petitioner could not have been convicted and sentenced. It is also averred that the Courts below ignored the defence arguments and the testimony of DW1 Tek Singh who had testified that on 15.10.2013 at about 8:00 PM, he was going to his village from Sri Muktsar Sahib on his motorcycle. As he approached the Gurudwara Sahib in the village of Bura Gujjar, he saw two young men crossing him at high speed. When the said young men arrived near the Tiles factory, a cyclist came on the road all of a sudden and to save him,

the young men lost control of the motorcycle, which slipped and hit a tree on the right side of the road leading from Muktsar to Bura Gujjar. It is also averred that the Courts ignored the evidence of DW2 Ravinder Kumar, who produced the record of the account books of the firm M/s Johri Lal Surinder Kumar, New Grain Market, Sri Muktsar Sahib. When the complainant and his fellow pillion rider, Ganga Singh, were cross-examined, they claimed to have obtained cash from the said firm. However, the account books produced by DW2 did not bear the signatures of the above-mentioned persons, which proved that they were not accompanying the deceased.

Responding to the above, the respondent Pairvi Officer submits that the entire evidence has already been considered by both the Courts. A re-appreciation of the evidence would not be carried out by the revisional Court unless there is a manifest illegality, perversity or gross misappreciation of evidence.

I have gone through the present petition as well as the case record.

Before proceeding further, it would be relevant to extract the reasoning of the appellate Court while dealing with the arguments raised in the petition. The same reads as under: -

“13. Learned counsel for accused-appellant has assailed the case of prosecution on the ground that the learned trial Court has not taken into consideration the fact that the presence of witnesses i.e. PW1 Jagjit Singh and PW5 Ganga Singh at the spot is doubtful as they have stated that they were following the motor-cycle of the deceased and on that day they had

gone to firm M/s Johri Lal Surinder Kumar and had obtained the money from said firm, but, they have not examined any witness of that firm to prove the presence of the witnesses at their shop, but, the witness has been examined by the accused as DW2 Ravinder Kumar, who has stated that the above said witnesses had not signed the entries and he has also stated that their signatures are not there in the account books. However, the mere fact that their signatures are not in the account books of firm M/s Johri Lal Surinder Kumar New Grain Market, Sri Muktsar Sahib, does not show that they were not present at the place of occurrence. Even though, they had not visited the shop of above said firm, their presence at the spot stands duly proved on the record as PW1 Jagjit Singh has specifically deposed that on the day of occurrence, he was driving motor-cycle bearing registration No.PB-05N-4894 and Ganga Singh was pillion rider, whereas the motor-cycle make Hero Honda Splendor Plus bearing NO.PB-30D-4672 was being driven by Jaskaran Singh and Harpal Singh was pillion rider thereon. He has further deposed that his motor-cycle was following the motor-cycle of the deceased and when at about 8:00PM, they reached near Tiles Factory Bura Gujjar, then one tractor make HMT-3511 came there toeing a trolley loaded with paddy being driven by accused-appellant in a rash and negligent manner and struck the same in the motor-cycle driven by Jaskaran Singh and Jaskaran Singh and Harpal Singh fell down and suffered multiple serious injuries. They called the ambulance-108 and took the injured to the hospital, but, before reaching hospital both of them succumbed to their injuries. Similarly, PW5 Ganga Singh, who is the other eye-witness to the accident has deposed on same lines as deposed by PW1 and has attributed rashness and negligence on the part of accused in driving his tractor and causing the accident. Both these witnesses have been

duly cross-examined by the learned defence counsel before the learned trial Court, but, no such material has surfaced in their cross-examination, which may caste any doubt over their veracity.

14. Another argument raised by the learned counsel for appellant is that DW.1 Tek Singh has stated that he was present on the spot and the deceased were on a motor-cycle which was being driven at a very high speed and when they reached near the tile factory, one person who was on bicycle, came on the road all of a sudden and the boys tried to save that person, as a result of which their motor-cycle slipped due to high speed and hit a tree on the right side of the road and they received multiple injuries, but, the version of this defence witness does not appear to be plausible especially in the circumstances as the accused has not raised even a little finger and even there is no enmity or ill-will on the part of the complainant or the police with the accused nor any such thing has been alleged by the accused while examined under Section 313 of Cr.PC, nor he has examined any witness to depose that why the complainant in connivance with the police has falsely implicated him in the instant case. Otherwise also, this defence witness has never reported the matter to the police or any other authority, that he has been falsely implicated in this case. He has simply stated that family members of the deceased were called later-on. If he has witnessed the occurrence, he would have reported the matter to the police. Even after the occurrence, he never approached the police officials or to any other higher authority to report that the accident had taken place in his presence and not in the presence of witnesses of prosecution. As such, his version given in the Court for the first time, does not appear to be plausible.

15. Another argument raised by the learned counsel for appellant is that the version put forth by the complainant is not plausible as there are improvements in his statement and word negligence has been added later-on when examined in the Court and mere stating that the accused was driving the tractor-trolley at high speed does not amount to negligence. The plain reading of the statements of witnesses i.e. PW1 and PW5 shows that the accused was driving the tractor-trolley at a high speed and rashly and negligently and presence of these witnesses stands established on the file and they have deposed to the police as well as in the Court that the accident has taken place in their presence. Not only this, their oral version has also been corroborated by medical evidence in the form of Dr. Surinder Kumar PW7, who conducted the autopsies on the dead bodies vide MLRS Ex.PW7/A and Ex.PW7/B and has deposed on the basis of his affidavit Ex.PW7/C and the investigation part has been proved by PW3 SI Dharampal the investigating officer and PW2 HC Baldev Singh and PW4 HC Satish Kumar, who were the members of the police party headed by the I.O. and they have proved the documents consisting of statement of complainant as Ex.P1, endorsement of IO as Ex.P2, FIR as Ex.P3, inquest reports as Ex.P4 and Ex.P5, request for post mortem report as Ex. P6, rough site plan as Ex.P7, recovery memo of HMT-3511 tractor bearing No.PB04A-8171 as Ex.P8, recovery memo of motor-cycle bearing No.PB-30D-4672 as Ex.P9, receipts in regard to handing over of dead bodies as Ex. P10 and Ex.P11, grounds of arrest memo as Ex.P12, personal search memo as Ex.P13, recovery memo of photocopies of registration certificates of tractor and motor-cycle as Ex.P14 and Ex.P15 and PW6 Neeraj Kumar, clerk DTO office has proved the copy of driving licence of Jaskaran Singh as Ex.PW6/A and driving licence of Gural Singh as Ex.PW6/B by bringing the record from his office. All the above said

witnesses have also been cross-examined by the learned counsel for accused before the learned trial Court, but, there is nothing in their cross-examination, which may go against the version of the prosecution.”

Besides, the findings of the trial Court would also be relevant.

The same are extracted as under: -

“18. Now, in the present case, the charge against the accused has been framed under sections 279,304-A,427,337,338 IPC. The allegations against the accused are that he drove his Tractor HMT 3511 bearing no. PB-04-A-8171 in a very rash and negligent manner on a public way so as to endanger human life and caused hurt to Jaskaran Singh and Harpal Singh and the said persons i.e., Jaskaran Singh and Harpal Singh succumbed to the injuries so caused due to the said accident and died. The prosecution version has been duly proved beyond all reasonable shadow of doubt by PW1 Jagjit Singh who is complainant as well as eyewitness of the accident caused by accused. He categorically deposed in the court that Gurpal Singh accused was driving his tractor trolley at a very high speed which hit the motorcycle of Jaskaran Singh whose pillion rider was Harpal Singh, as a result of which Jaskaran Singh and Harpal Singh died on the spot due to the injuries suffered in the said clash. He categorically stated that they had stopped the tractor on the spot and had enquired the name of the accused who disclosed his name as Gurpal Singh. The identity of the accused has also been proved by the prosecution as the complainant Jagjit Singh and eyewitness Ganga Singh have categorically identified the accused in the court during trial. Despite lengthy cross-examination of both these witnesses, nothing in favour of the accused could be adduced from the testimony of

these witnesses. The ocular version of the complainant Jagjit Singh and eyewitness Ganga Singh is duly supported with the medical evidence proved by PW7 Dr.Surinder Kumar, Medical Officer, Civil Hospital, Sri Muktsar Sahib who had proved the postmortem reports of Jaskaran Singh as Ex.PW7/A and Harpal Singh as Ex.PW7/B. The investigation part has been duly proved on record by PW3 SI Dharam Pal Investigating Officer who has duly proved the statement of complainant as Ex.P1, endorsement as Ex.P2, FIR as Ex.P3, inquest reports as Ex.P4 and Ex.P5 respectively, request vide which dead bodies were handed over to HC Satish Kumar as Ex.P6, tractor along with trolley filled with paddy bearing no.PB04A8171 was taken into police possession vide memo as Ex.P8, memo vide which motorcycle bearing no.PB30D4672 was taken into police possession as Ex.P9. Case property i.e., motorcycle as MO1, tractor as MO2 and trolley as MO3 were produced in the court, rough site plan as Ex.P7, dead bodies were handed over to relatives of the deceased vide receipts as Ex.P10 and Ex.P11, parcels of clothes of the deceased were produced by HC Satish Kumar which were proved as MO4 and MO5. He further proved on record arrest memo of accused as Ex.P12 and personal search memo as Ex.P13, photocopies of RCs of tractor and motorcycle which were taken into police possession vide memos as Ex.P14 and Ex.P15 respectively. This witness also stood firm on the grounds taken by him in his examination-in chief and duly corroborated the prosecution version in all material particulars. The other official witnesses PW2 HC Baldev Singh and PW4 HC Satish Kumar have duly corroborated the version of PW3 SI Dharam Pal. PW6 Neeraj Kumar, Clerk DTO Office, Sri Muktsar Sahib duly proved on record the copy of RC of motorcycle Hero Honda Splender Plus bearing no.PB-30D-4672 which was registered in the name of Jaskaran Singh son of Harnek

Singh, resident of village Sangrana, Sri Muktsar Sahib as Ex.PW6/A and the photocopy of licence of Gurpal Singh bearing no.PB305750/NDL/07-08 as Ex.PW6/B.

19. The accused had taken a plea that he was innocent and have been falsely implicated in this case with intention to claim death case of the deceased in connivance with the police. He further pleaded that he came to know later on from the person who passed from the place of accident and saw the accident that the motorcycle had hit with tree which was the result of accident. In order to substantiate his stand, he examined DW1 Tek Singh, however, this witness was unable to inspire the evidence of the court because he categorically stated that he had been brought in the court by the accused to give evidence. So, possibility of him being an interested witness cannot be ruled out. He also did not prove any application moved by him before the police or any higher authority that the Investigating Officer had falsely implicated the accused in the present case. He also admitted in his cross-examination that no accident took place before him in which the tractor was involved. So, his testimony pales into insignificance. Accused has also examined DW2 Ravinder Kumar who is Accountant of M/s Johri Lal Surinder Kumar, New Grain Market, Sri Muktsar Sahib to prove that the deceased and his relatives had never gone to Muktsar on the day of occurrence. However, in his cross-examination, Ravinder Kumar had categorically stated that Jagjit Singh, Sukhjinder Singh and Ganga Singh used to come their shop 5/6 days prior and after 14.10.2013, these persons had stored their crops as they wanted to sell them from through their commission agency. This facts duly corroborated the testimony of PW Jagjit Singh complainant and eyewitness Ganga Singh. So, it is clear that the prosecution has fully proved on record the guilt of the accused.”

It is thus evident from the above that learned Sessions Judge, Sri Muktsar Sahib, while dealing with the testimony of DW2 Ravinder Kumar, specifically held that the mere absence of signatures of the complainant and his companion Ganga Singh, in the account books of the firm M/s Johri Lal Surinder Kumar, did not prove that they were not present at the place of occurrence. Learned Judge also went on to observe that the testimony of DW1 Tek Singh was implausible since the petitioner did not allege any enmity or ill will on the part of the complainant or the police with him. The said defence witness never approached the police officials or any other higher authority to report the factum of the accident having taken place in his presence and not in the presence of the witnesses of prosecution. It was in the said circumstances that the Sessions Judge, Sri Muktsar Sahib dismissed the appeal filed by the petitioner.

As per the ratio laid down by the Hon'ble Supreme Court in the matter of *Amit Kapoor v. Ramesh Chander and Another*, reported as **(2012) 9 SCC 460**, it is a well-settled proposition of law that the High Court, in its revisional jurisdiction does not engage in reappraisal of facts and the evidence placed on record. The scope of the High Court's jurisdiction is limited to cases involving patent illegality, infirmity and non-appreciation of the evidence placed on record. Hence, in the light of the above circumstances, I do not find any sufficient circumstances to exist to interfere with the findings recorded by both the Courts. However, undisputedly, the present matter pertains to the year 2016 and no other criminal case stands registered against the petitioner. The petitioner has

already undergone an actual custody of more than 7 months out of total sentence of 2 years before the sentence of the petitioner was suspended by this Court vide order dated 10.08.2017. The alleged incident occurred in 2013 and the petitioner has faced the agony of a protracted trial for nearly 12 years.

The Hon'ble Supreme Court in the matter of **Pramod Kumar Mishra Vs. State of UP (2023) 9 SCC 810**, observed that punishment must not be viewed as an act of vengeance but as a means of reformation and reintegration of the offender into society. It was further held that an appropriate sentence must be determined by considering a range of factors, including the nature and circumstances of the offence, the offender's background, age, mental and emotional condition, potential for rehabilitation, prior criminal record, and the deterrent needs of the community. Sentencing, the Court noted, involves a delicate exercise of judicial discretion where multiple social, psychological, and moral factors must be balanced to ensure that justice serves both societal protection and individual redemption. The relevant extract of the said judgment is reproduced hereinbelow:-

12. India, till date, does not have a statutory sentencing policy in place. This Court, however, has proceeded to examine the objective behind sentencing and the factors to be kept in mind while imposing such punishments. In Mohd. Giasuddin v. State of A.P. [Mohd. Giasuddin v. State of A.P., (1977) 3 SCC 287 : 1977 SCC (Cri) 496] (two-Judge Bench), it stood observed that : (SCC pp. 290 & 293-94, paras 9 & 16-17)

“9. ... Crime is a pathological aberration, that the criminal can ordinarily be redeemed, that the State has to rehabilitate

rather than avenge. The sub-culture that leads to anti-social behaviour has to be countered not by undue cruelty but by re-culturisation. Therefore, the focus of interest in penology is the individual, and the goal is salvaging him for society. The infliction of harsh and savage punishment is thus a relic of past and regressive times. The human today views sentencing as a process of reshaping a person who has deteriorated into criminality and the modern community has a primary stake in the rehabilitation of the offender as a means of social defence. We, therefore, consider a therapeutic, rather than an “in terrorem” outlook, should prevail in our criminal courts, since brutal incarceration of the person merely produces laceration of his mind.

16. ... ‘A proper sentence is the amalgam of many factors such as the nature of the offence, the circumstances — extenuating or aggravating — of the offence, the prior criminal record, if any, of the offender, the age of the offender, the record of the offender as to employment, the background of the offender with reference to education, home life, sobriety and social adjustment, the emotional and mental conditions of the offender, the prospects for the rehabilitation of the offender, the possibility of return of the offender to normal life in the community, the possibility of treatment or training of the offender, the possibility that the sentence may serve as a deterrent to crime by the offender or by others and the current community need, if any, for such a deterrent in respect to the particular type of offence. These factors have to be taken into account by the Court in deciding upon the appropriate sentence. [As observed in Santa Singh v. State of Punjab, (1976) 4 SCC 190 at p. 191 : 1976 SCC (Cri) 546] ’

17. It will thus be seen that there is a great discretion vested in the Judge, especially when pluralistic factors enter his calculations. ... innovation, in all conscience, is in the field of judicial discretion.”

(emphasis in original)

The fundamental purpose of imposition of sentence is based upon making an accused realize the consequences of the crime committed by him and the creation of a dent in the life of the victims and also the social fabric. The same by itself does not oblige the Court to extend opportunity to a convict for reforming himself. The principles of proportionality have to be balanced and the impact of the offence on the society as a whole and its ramifications on the victim and the immediate collectives also has to be examined.

A nine judge bench of the Supreme Court of the United States, in *Dennis Councle McGautha v. State of California* reported as 402 U.S. 183 (1971), observed that the criteria governing sentencing neither furnish an exhaustive list of relevant considerations nor indicate how various circumstances should influence the decision-making process. In essence, these standards merely suggest broad areas for consideration and underscore the inherent difficulty in formulating uniform sentencing principles, particularly in matters of grave offences. The Court further cautioned against rigidly prescribing or mandating uniform standards for sentencing, emphasizing that the principles governing punishment must depend upon the facts and circumstances of each individual case, and that no straightjacket formula can be universally applied.

In the aforesaid backdrop, and keeping in view the established legal principles governing sentencing, it becomes imperative to evaluate the mitigating circumstances relevant to the present case. The same are, therefore, extracted as under:—

- i. The incident in question pertains to the year 2013, and nearly twelve years have elapsed since then. The petitioner has thus suffered the ordeal and anguish of protracted criminal proceedings spanning over 12 years.
- ii. The petitioner is alleged to have been driving the Tractor in a rash and negligent manner, which allegedly resulted in the occurrence of the accident. However, there is no record of the petitioner having been involved in any other similar criminal offence, either during the pendency or after the conclusion of the present case, indicating that the petitioner has reformed himself and successfully reintegrated into the mainstream of society.
- iii. The penal consequences, in such circumstances, deserve to be moderated to ensure a balance of equities, particularly when the offender has exhibited genuine reformatory conduct. The sentence, therefore, warrants suitable modification to reflect recognition and encouragement of such good behaviour.
- iv. It is well settled that the object of punishment is not merely to deter but also to reform, and where an offender demonstrates sincere remorse and rehabilitation, the

emphasis must shift from retribution to reintegration into society.

Taking into consideration the facts noticed above and that the petitioner has faced the rigour of criminal prosecution for twelve years since the registration of the FIR and as against the substantive sentence of 2 years, he has already undergone a sentence of more than 07 months, I deem it appropriate to partly allow the petition. While maintaining the judgment of conviction, the order of sentence so passed is modified. The sentence awarded by the Additional Chief Judicial Magistrate, Sri Muktsar Sahib vide order dated 01.09.2016 and as affirmed by the Sessions Judge, Sri Muktsar Sahib vide judgment dated 28.11.2016, is modified to the period already undergone.

All the pending miscellaneous application(s), if any, are also disposed of.

DECEMBER 16, 2025
raj arora

(VINOD S. BHARDWAJ)
JUDGE

Whether speaking/reasoned	:	Yes/No
Whether Reportable	:	Yes/No