

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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2025.PHHC.158309



CRR-1480-2023 (O&M)
Date of decision: 14.11.2025.

KULTAR SINGH @ BITTU

...Petitioner(s)

VERSUS

STATE OF PUNJAB

...Respondent(s)

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

Present :- Mr. Balwinder Singh, Advocate, (Legal-aid-counsel)
for the petitioner.

Ms. Savi Nagpal, AAG, Punjab.

VINOD S. BHARDWAJ, J. (Oral)

The instant criminal revision petition has been preferred against the judgment of conviction and order of sentence dated 13.06.2017 passed by the Judicial Magistrate First Class, Phagwara, wherein the revisionist-petitioner has been convicted in proceedings arising from case bearing FIR No.62 dated 07.08.2015 registered under Sections 279 and 304-A of the Indian Penal Code, 1860 at Police Station Rawalpindi, Phagwara, and also against the judgment dated 01.06.2023 passed by the Additional Sessions Judge, Kapurthala, vide which appeal filed by the petitioner has only been partly allowed by modifying the sentence. The petitioner had been sentenced by the Judicial Magistrate First Class, Phagwara, as under:-

Sr. no.	Sections	Punishment
	Section 279 IPC	Simple imprisonment for six months and a fine of Rs.500/-, in default of making fine, to further undergo simple imprisonment for one week.
	Section 304-A IPC	Simple imprisonment for one year and a fine of Rs.2,000/-, in default of making fine, to further undergo simple imprisonment for one week.

2 The sentence was reduced to 04 months and 09 months respectively for the above offences by the Appellate Court.

3 Succinctly stated, the present case arises from the statement of the complainant, Nasib Chand, son of Mohinder Pal, resident of Malakpur, Police Station Rawalpindi, Phagwara. The complainant got recorded his statement to the effect that he is employed as a mason and that his mother, Parkash Kaur, aged about 75 years, resided with him and was in poor health. He informed his mother that she needed to be medically examined and requested her to walk towards the road, assuring her that he would follow shortly. According to the complainant, while his mother proceeded ahead on the road and he followed her behind, when she reached the mettled portion of the road, at that time Kultar Singh, a resident of the same village, was reversing his vehicle at a very high speed. The complainant asked him to stop the car as his mother was unable to move aside. However, Kultar Singh struck the vehicle against his mother, causing her multiple injuries. The complainant subsequently came to know that the vehicle involved was a Xylo bearing registration number PB-08-CH-1721, belonging to Kultar Singh. The injured

was first taken to the Civil Hospital, Phagwara, and was thereafter referred to the Civil Hospital, Jalandhar, where she finally succumbed to her injuries on 06.08.2015.

4 On these allegations, the present FIR was registered. Acting on the complainant's statement, police proceedings were initiated and investigation commenced. The post-mortem examination of Parkash Kaur was conducted, and her body was handed over to her legal heirs. Statements of witnesses were recorded, and a site plan was prepared. The accused was arrested, and the vehicle bearing registration number PB-08-CH-1721, along with its Registration Certificate and the driving licence of the accused, was taken into police possession. The Registration Certificate and driving licence were duly proved through the concerned DTO, and a mechanical inspection report of the vehicle was obtained. Upon completion of the investigation and fulfilment of the necessary formalities, the police presented the challan before the competent Court.

5 On completion of the procedural compliances, parties led their respective evidence. The prosecution examined as many as six prosecution witnesses.

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

7 After considering the arguments advanced, the testimonies of witnesses, and the evidence placed on record, the learned Trial Court vide its judgment and order of sentence dated 13.06.2017 held the petitioner guilty of the offence punishable under Sections 249 and 304-A of the IPC.

8 Aggrieved by the judgment and order of sentence, the petitioner preferred an appeal bearing No.CRA/130/2017, before the Court of Additional Sessions Judge, Kapurthala. Vide judgment dated 01.06.2023, the said appeal was partly allowed. While upholding the conviction of the petitioner, the sentence awarded by the trial Court was reduced as under:-

Under Sections	Sentence	Fine
Section 279 of the Indian Penal Code	To undergo Simple imprisonment for 04 months.	Rs.500/-, in default of which to undergo simple imprisonment for 01 month.
Section 304-A of the Indian Penal Code	To undergo simple imprisonment for 09 months	Rs.2,000/-, in default of which to undergo simple imprisonment for 01 month.

9 Aggrieved thereof, the present petition has been filed. The matter was adjourned on different dates, however, as none appeared on behalf of the petitioner on three occasions when the matter was taken up for hearing, legal aid counsel was appointed on behalf of the petitioner to assist this Court.

10 The Legal Aid Counsel has gone through the case file. He submits that both the Courts have erred in failing to duly consider the discrepancies emerging from the testimonies of the prosecution witnesses, particularly in relation to whether the petitioner was, in fact, the driver of the offending vehicle at the relevant time. Reliance is placed upon the deposition of the complainant, Nasib Chand, who appeared as PW-2. It is contended that both the Courts overlooked the complainant’s categorical admission that the petitioner owns several vehicles which are operated as taxis for hire. In such

circumstances, learned counsel argues, the mere fact that the petitioner is the registered owner of the offending vehicle would not by itself give rise to the presumption that he was also the person driving the offending vehicle at the time of the incident.

11 State counsel, on the other hand, contends that evidence led by the parties has already been considered by both the Courts and the finding on conviction on the strength of evidence was returned by the trial Court which has been affirmed in appeal by the Appellate Court. He submits that the petitioner has already undergone the entire sentence and has since then been released on 29.02.2024 after completion of his sentence.

12 I have heard learned counsel appearing on behalf of the parties and have also gone through the documents appended along with the present petition as well as considered the arguments advanced.

13 Before proceeding further into the matter, it is apposite to make a reference to the finding recorded by the first Appellate Court. The relevant part thereof reads thus:-

“13. I have paid a considerable thought to the submissions of both parties and have gone through the record pertaining to this case, with their able assistance.

14. The first argument raised by the learned counsel for the appellant Kultar Singh @ Bittu is that since the identity of the accused has not been established in the present case in a proper manner, therefore, the appellant/ accused was held entitled to the benefit of doubt on this ground only. But there is no force in this contention of learned counsel for the appellant/ accused. A careful perusal of entire prosecution evidence would go to reveal that accused was properly identified by the prosecution witnesses.

15. *The star witnesses of the prosecution i.e. complainant Nasib Chand as PW-2 has duly proved that on the relevant date i.e. 06.08.2015, his mother was having fever and she said to him that she want to see doctor. Accordingly, he asked her mother to reach at Pakka Road and he will come after her on his motorcycle. His mother was going 20-22 feet ahead to him on foot and he was on his motorcycle. However, when his mother reached at Pakka Road, then he saw present accused Kultar Singh @ Bittu, was bringing his car back on high speed and his mother being old lady was walking slowly. Then said Kultar Singh brought his car back in a rash and negligent manner and when he saw it, he raised honk and his mother was behind the car, but in spite of that, he struck the car against his mother. Due to this, his mother received injuries. The number of the car was PB-08-CH-1721 make XYLO. The accident took place at about 10 AM. The accident took place due to rash and negligent driving of the accused present in the court. Moreover, perusal of statement of complainant Naseeb Chand Ex.PW2/A and FIR Ex.PW5/3 would reveal that the FIR was registered against the accused by name on 07.08.2015 i.e. on the very next day of accident. Further, the accused was arrested in the present case vide memo Ex.PW5/1 and vehicle, involved in the accident, was also taken into possession vide memo Ex.PW5/2. Thus there is no doubt regarding the identity of the driver of the car i.e. accused Kultar Singh @ Bittu in the present case.*

16. *Moreover, PW-3 Dr. Chander Parkash, Medical Officer, CHC PAP, Jalandhar, has proved on record postmortem report Ex.PW3/A of Parkash Kaur, which shows that deceased Parkash Kaur sustained serious injuries in the accident and succumbed due to injuries to vital organs.*

17. *Further, ASI Jagga Singh – Investigating Officer of the present case as PW-6, has proved on record the police proceedings conducted in the present case by him by proving on record various important documents pertaining to the present*

case. No doubt, the Investigating Officer has not joined any independent witness in the present case, but this fact is not fatal to the case of the prosecution, as the prosecutions witnesses have duly proved the case of the prosecution. Moreover, as per the mechanical test report of vehicle involved in the present i.e. Ex.PW4/A, proved on record by PW-4 HC Nazar Singh, there was no mechanical defect in the vehicle involved in the present case and accident occurred due to rash and negligent driving of accused Kultar Singh @ Bittu.

18. The another contention of learned counsel for appellant is with regard to contradictions in the testimony of prosecution witnesses. This argument of the learned counsel is without any substance as in accidental cases, these are bound to occur in the testimony of most truthful witnesses, as in such like cases no one can kept in mind the minute details of the occurrence being busy to take care of the injured. Otherwise also human memory is short and with the passage of time it fades away. Moreover, there is difference in the observation power of each individual. The appellant has not alleged or proved any enmity with the witnesses and there is no motive to implicate the appellant falsely in the present case.

19. Another contention raised by learned counsel for the appellant is that PW-6 ASI Jagga Singh, who is the Investigating Officer of this case has since admitted that he never took the eye-witness at the spot, so, an adverse inference has to be taken against the prosecution in this regard. But there is no force in this contention of learned counsel for the appellant. Simply because ASI Jagga Singh has randomly admitted that he never particularly took the injured to the spot at a relevant time that would not shatter the entire prosecution story. On the other hand, PW6 ASI Jagga Singh has categorically stated that on 07.08.2015, he received information through MHC regarding death of Parkash Kaur in an accident. He went to dead house CH Jalandhar with his co-officials, where, complainant Naseeb

Chand son of deceased Parkash Kaur, recorded his statement with ASI Jagga Singh regarding the occurrence and death of his mother Parkash Kaur. He has further deposed that on the same day, he filled Form 25:35 (inquest report) Ex.PW6/C and recorded the statements of Hussan Lal and Baljinder Kumar, who identified the dead body. Then, he moved an application for the postmortem of deceased Parkash Kaur. He has deposed that on the same day, he inspected the spot and prepared a rough site plan Ex.PW6/F with correct marginal notes. This witness was cross-examined at length, but nothing emerged out of his cross-examination, which could support the defence.

20. Another contention raised by learned counsel for the appellant is that it was the accused, who actually took the injured to the hospital and got her treated. Had the accused been at fault, he could have easily run away from the spot. However, accused has failed to prove this on record that he was not at fault in the present case. Moreover, no witness in his defence has been produced by the appellant/ accused to prove his bald statement made u/s 313 Cr.P.C. as well as to that he has been falsely implicated in the present case. Further, if it was the accused, who was instrumental in getting the injured admitted in the concerned hospital, then it will not dissolved the accused completely from the crime, although, a lenient view may be taken so far as sentencing is concerned as a mitigating circumstance.

21. To fix a criminal liability on the accused it is necessary for the prosecution to prove the manner of accident and that the accused was driving in rash and negligent manner. The onus is on the prosecution to establish beyond reasonable doubt that the car was being driven in a rash and negligent manner. What is rash or negligent driving would depend upon facts and circumstances of each case and no hard and fast rule can be made. The act is rash i.e. to say, an over hasty act then without due deliberation and caution. It produces the result which the offender never expected. In cases of negligence the party does

not perform an act to which he is obliged and he breaks a positive duty. In rashness the party does not act which he is bound to forbear, he breaks a negative duty. And in rash as well as in negligent act there is a knowledge of the consequence but there is over confidence which makes one believe its happening unlikely. The nature of the injuries suffered by the deceased Parkash Kaur clearly proves that it is the result of impact of the vehicle, which was at a very high speed, otherwise such type of injuries cannot occur. It was the duty of the appellant to drive his vehicle with due care and caution and at the speed under his control. But from the evidence on record it is proved that the appellant did not applied due care and caution and caused the accident due to his rash and negligent driving. The degree of culpability is judged here by applying the objective test of effect produced by the negligence. From the aforesaid discussion it is abundantly clear that it is a case of rash and negligent driving.

22. The counsel for the appellant/ accused during the course of the arguments has requested that the appellant is a first time offender and only bread winner of his family, so he be given the benefit of probation under the Probation of Offenders Act. The Hon'ble Apex Court in State of Madhya Pradesh Versus Surindera Singh reported in 2015 AIR Supreme Court 398, has held that undue sympathy would do more harm to the justice system to undermine the public confidence in the efficiency of law. It is further held that the punishment should not be so lenient that it shocks the conscience of the society.

23. The Hon'ble Apex Court in State of Karnataka Versus Sharanappa Basnagauda Aregaudar reported in 2002 AIR SC 1539, has held that award of lesser sentence in accident cases may set an unhealthy precedent and send wrong signal to subordinate courts, which have to deal with such accident cases.

24. Moreover, to constitute an offence under Section 304-A IPC the prosecution has to establish that the act of the accused was responsible for resulting in death and such act of the accused

*was rash or negligent, although it does not amount to culpable homicide. To constitute either of these offences rashness or negligence is essential to be proved. It has been held in “**Kurban Hussain Mohd. Rangawala Vs. State of Maharashtra** , AIR 1965 SC 1616”, “To impose criminal liability under Section 304-A IPC, it is necessary that death should have been direct result of rash or negligent act of the accused, and that act must be proximate and efficient cause without the intervention of another's negligence. It must be the cause causans; it is not enough that it may have been the causa sine qua non”.*

25. The manner in which the accident took place shows that the accused was negligent in driving the offending vehicle. From the above discussion it is evident that the driver of the offending vehicle was negligent in driving the vehicle.

26. In view of the above discussions, this court is of the considered view that prosecution has duly proved its case beyond shadow of reasonable doubt against the accused for the offence under Sections 279 and 304-A IPC. The findings of conviction given against the accused by the learned trial court are correct and as per law and I do not find any infirmity or illegality in the same.

27. As far as sentencing part of the impugned judgment passed by the learned trial court is concerned, it is settled law that the fundamental purpose of imposition of sentence is based on the principles that the accused must realize that the crime committed by him has only created a dent in his life, but also concavity in the social fabric. It is also settled law that punishment should not be so lenient that it shakes the conscience of the society. Considering the degree of the offence and larger interest of the society this Court finds that there is no infirmity in the quantum of sentence passed by the learned trial Court and I do not find any infirmity in the same. However, in view of the request of learned counsel for the appellant Kultar Singh @ Bittu that he is a first offender and only bread winner of his family, he

is sentenced by modifying the sentence part, as under:-

<i>Under Sections</i>	<i>Sentence</i>	<i>Fine</i>
<i>Section 279 of the Indian Penal Code</i>	<i>To undergo Simple imprisonment for 04 months.</i>	<i>Rs.500/-, in default of which to undergo simple imprisonment for 01 month.</i>
<i>Section 304-A of the Indian Penal Code</i>	<i>To undergo simple imprisonment for 09 months</i>	<i>Rs.2,000/-, in default of which to undergo simple imprisonment for 01 month.</i>

Both the sentences shall run concurrently.”

14 It is thus evident that submissions made on behalf of the petitioner have already been taken into consideration by the Appellate Court. The identity of the petitioner being driver of the offending vehicle at the time of accident was duly established and proved. It is further specifically recorded that the petitioner was expressly named as the accused, identified by name as the driver of the offending vehicle, and was therefore already known. Hence, the dispute with respect to the identity of the petitioner being driver of the offending vehicle never arose.

15 Legal aid counsel for the petitioner has not been able to point out any illegality and perversity in the findings recorded by the Courts on appreciation of evidence. Hence, in the absence of any misconceived or misplaced conclusions drawn by both the Courts, such finding would not ordinarily be interfered with, only because some other view may also be possible. While sitting in revisional jurisdiction, the High Court does not re-examine the entire evidence or substitute its own opinion. As no illegality,

perversity, impropriety or misappreciation of evidence has been pointed out in the judgments passed by both the Courts, finding no merits, the present revision petition is dismissed.

16 Copy of this order be sent to High Court Legal Services Committee.

17 Pending misc. application(s), if any, shall also stand(s) disposed of accordingly.

November 14, 2025.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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