



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

**CRR-461-2009 (O&M)
Reserved on : 16.02.2026
Date of Decision :28.04.2026**

Rakesh Kumar

.....Petitioner

Versus

State of Haryana

..... Respondents

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Present : Mr. Raja Sharma, Advocate for the petitioner.

Mr. Ramender Singh Chauhan, AAG, Haryana.

SURYA PARTAP SINGH, J. (Oral):

Aggrieved of the judgment of conviction passed by the learned Judicial Ist Class Hansi, and affirmed by the learned Additional Sessions Judge, Hisar, the present revision petition has been filed by the petitioner/convict, hereinafter being referred to as 'petitioner' only.

2 In nut-shell the facts emerging from record are that, that for the commission of offence punishable under Sections 279 & 304-A of the Indian Penal Code, hereinafter being referred to as 'IPC' only, the FIR No.250 dated 11.05.1997, was lodged in Police Station Narnaund. The above mentioned FIR came into being on the statement of 'Riki Kesh', hereinafter being referred to as 'complainant' only, who stated that on 11.05.1997, he along with his father had gone to the bus stand of their village to see-off their guest, and that after the departure of guest when his father was about to go back to his village, one four wheeler, bearing registration No.HR-32-0827, came from village 'Moth'



side. As per complainant the driver of the above mentioned vehicle was driving the abovesaid vehicle it in a rash and negligent manner and hit his father resulting into his death.

3. It is the case of the prosecution that pursuant to above mentioned statement formal FIR of this case was lodged and the investigation taken up. As per prosecution, during the course of investigation the accused was arrested and remaining formalities with regard to investigation of the case were completed and the accused was sent to the Court of learned Judicial Magistrate Ist Class Hansi, to face trial for the commission of above mentioned offence, hereinafter being referred to as 'trial Court' only.

4. The above mentioned trial culminated into conviction of the petitioner and following sentence was awarded by the learned trial Court:-

279 IPC	Rigorous imprisonment for six months and to pay fine of Rs.500/- (five hundreds). In default of payment of fine, he shall undergo R.I. for 15 days (fifteen days).
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304-A IPC	Rigorous imprisonment for one year and to pay fine of Rs.1000/- (one thousand). In default of payment of fine, he shall undergo R.I. for one month.
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5. Aggrieved of the above mentioned judgment of conviction and order of sentence the petitioner preferred an appeal in the Court of Sessions. The above mentioned appeal was dealt with by the learned Additional Sessions Judge, Hisar, hereinafter being referred to as 'Appellate Court' only. However, the appeal preferred by the petitioner did not find favour in the Appellate Court and the same has been dismissed.

6. Heard.

7. It has been contended by learned counsel for the petitioner that the



judgments passed by the learned trial Court, as well as the learned Appellate Court, are outcome of non-application of mind, and that without application of judicial mind and without taking into consideration the relevant provisions of law (including precedents) the judgment of conviction has been rendered by the learned trial Court, and affirmed by the learned Appellate Court. According to learned counsel for the petitioner the evidence adduced by the prosecution was inadequate to prove the charge against the petitioner, and that an error of judgment has been committed by the learned trial Court, and the learned Appellate Court.

8. According to learned counsel for the petitioner the evidence adduced by the prosecution was contradictory on all material points and the most essential ingredient supposed to be proved for proving charge under Sections 279 and 304-A IPC, i.e. rash and negligent driving, was not duly established by the prosecution. It has also been contended by learned counsel for the petitioner that even the identity of the petitioner as driver of the offending vehicle was not proved, by adducing reliable evidence, and thus, the findings recorded by the learned trial Court needs interference and indulgence of this Court. While claiming that impinged judgments, have been passed, merely on the basis of conjectures and surmises, and that the unreliable evidence adduced by the prosecution has been believed, it has been contended by learned counsel for the petitioner that there is need for interference and indulgence in the impugned judgments by this Court by exercising the revisional jurisdiction.

9. In addition to above, the learned counsel for the petitioner has also come forward with an alternative prayer. According to learned counsel for the



petitioner if this Court does not find it appropriate to interfere in the judgment of conviction, passed by the learned trial Court, and affirmed by the learned Appellate Court, instead of a direction to the petitioner to undergo awarded sentence the benefit of probation may be afforded to him. With regard to above, the learned counsel for the petitioner has referred to the principles of law propounded by the Hon'ble Supreme Court of India in the case of 'Sanjay Colaro V/s State of Karnataka', Criminal Appeal No.2133 of 2025, and by this Court in the case of 'Bhupinder Singh Vs. State of Punjab', 2006 (1) RCR (Criminal) 725.

10. The learned State counsel has controverted the above mentioned arguments. According to learned State counsel in the present case consistent and reliable eye-witness account was led by the prosecution to prove the factum of rash and negligent driving of the offending vehicle by the petitioner at the time of accident. As per learned State counsel the above mentioned eye-witness account comprising of testimonies of PW-4 and PW-6 proved beyond the shadow of all reasonable doubts that the driver of the offending vehicle at the time of commission of offence was the petitioner, and that he was driving the same in a rash and negligent manner. According to learned State counsel the above mentioned eye-witness account was further supported and corroborated by the medical evidence and the testimony of official witnesses, and thus, the burden of proving charge for the commission of offence punishable under Sections 279 and 304-A IPC was successfully discharged by the prosecution. In view of above, the learned State counsel has contended that there is no scope for interference or indulgence in the impugned judgments, and that the present revision petition is devoid of merit. In view of



above, the learned State counsel has prayed for dismissal of present petition.

11. The record has been perused carefully.

12. A careful perusal of record shows that in the present case in order to prove its allegations the prosecution had relied upon the testimonies of six witnesses. Amongst them PW-4 and PW-6 were the most important witnesses being eye-witness of the occurrence. Both of them in very specific and categorical word deposed that at the time of accident they were present at a distance of about 15 feet from the place of occurrence. The above mentioned eye-witnesses also deposed that they had seen the vehicle just before the accident, and that at the time of accident the offending vehicle was being driven by the petitioner at a fast speed in a negligent manner. Both the PW-4 and PW-6 had offered themselves for cross-examination by learned defence counsel. The learned defence counsel availed the opportunity of cross-examination of both the witnesses but despite sustained and probing cross-examination nothing significant was extracted, in their testimonies of PW-4 & PW-6, which could have impeached the credibility of their depositions.

13. In order to provide support and corroboration to the above mentioned testimonies the Medical Officer, too, was examined, by the prosecution, as PW-2. The PW-2 had provided a support to the persecution case by deposing that he had conducted post mortem examination of the dead body of 'Dharam Chand', the father of the complainant. The PW-2 had proved the post mortem report as Ex.P2.

14. For further support to the eye-witness account and medical evidence, the prosecution had examined Birbal, as PW-1, the Investigating Officer of the case SI/SHO Bhim Singh, as PW-5. The PW1 duly proved the



statement which had served as foundation for the FIR Ex.P1. The PW-5 had proved various steps taken by him during the course of investigation and supported the prosecution case in all material particulars. In addition to above mentioned witnesses two formal witnesses, too, were examined by the prosecution. Amongst them PW-3 Kishan Lal was the official, who had inspected the offending vehicle and prepared the report Ex.P3.

15. As far as the charges for the commission of offence punishable under Sections 279 and 304-A IPC were concerned, to prove the same the first and foremost component to be proved by the prosecution was that the petitioner was driving the offending vehicle at the time of accident. To prove the above mentioned fact the prosecution had relied upon the testimony of PW-4 & PW-6. The PW-4 and PW-6, being eye-witness of the occurrence, deposed that after the accident the petitioner was apprehended on the spot and the testimony of PW-5 shows that petitioner was arrested on the spot itself after registration of FIR. The above mentioned consistent evidence found further support from the contents of examination of PW-4 and PW-6, who identified him at the time of their examination-in-chief. Thus, the identity of the petitioner as driver of the offending vehicle had been duly proved by the prosecution.

16. The next component to be proved by the prosecution was that at the time of accident the offending vehicle was being driven either in rash or in negligent manner.

17. To prove the above mentioned component, the prosecution had again relied upon the testimony of PW-4 and PW-6, who had deposed that at the time of accident offending vehicle was being driven at a very fast speed



and that while going on the wrong side of the road it had hit the deceased. The testimonies of PW-4 and PW-6 qua above mentioned aspect found support from the site plan of the place of occurrence, Ex.P7. A perusal of above mentioned site plan shows that the accident had taken place on extreme right side of the road, while proceeding from village Moth to Lohari. The presence of offending vehicle on the right side of the road in itself speak about the fault of its driver.

18. In addition to above, the place where the vehicle was ultimately found, i.e. on the right side of the road, far away from metalled portion, further proves that the driving of the offending vehicle at the time of accident was negligent.

19. The third component to be proved by the prosecution was that at the time of accident death of Dharam Chand had taken place. To prove the above mentioned facts the prosecution had relied upon the testimony of four witnesses, i.e. two eye-witness, the Medical Officer and the Investigating officer of the case. All of them had deposed that on account of injuries suffered in the accident Dharam Chand had passed away.

20. Taking into consideration the above mentioned observations once all the essential components supposed to bring home charge for the commission of offence punishable under Sections 279 and 304-A IPC were duly established by the prosecution, it is hereby held that with the help of above mentioned evidence the prosecution was successful in discharging its burden with regard to proof of charge for which the petitioner was tried by the learned trial Court.

21. As a sequel to above mentioned observations it is hereby observed



that no error of judgments was committed by the learned trial Court, vis-a-vis by the learned Appellate Court, while holding that charge for the commission of offence under Sections 279 & 304-A IPC had been successfully proved by the prosecution. Thus the finding of learned trial Court with regard to conviction of the petitioner is hereby upheld, and qua above mentioned aspect the present revision petition is hereby dismissed.

22. As far as the quantum of sentence is concerned the most relevant fact to be taken into consideration is that accident in question had taken place about 29 years ago and there is nothing on record to show that the petitioner has ever indulged in any such kind of offence subsequent thereto. Otherwise also in view of the fact that the petitioner is facing the agony of present prosecution for the last more than 29 years, it is hereby observed that he deserves a lenient view.

23. A perusal of record shows that in the present case the petitioner has already served a sentence for a period of one month and twenty one days.

24. With regard to fact-situation prevailing in the present case the observations recorded by the Hon'ble Supreme Court of India in the case of 'George Vs. State of Kerala', SLP (Criminal) No.11041 of 2024 are relevant. In the above mentioned case the Hon'ble Supreme Court of India has observed that under Sections 304-A and 338 of IPC no minimum sentence has been provided, and therefore, the sentence can also be limited to fine without any term of imprisonment. In the above mentioned case while considering the custody period of 117 days, the Hon'ble Supreme Court of India awarded sentence to the convict for the period he had already undergone.

25. A lenient view has been taken by the Hon'ble Supreme Court of



India in the case of ‘Sanjay Colaro (supra)’ also, wherein the benefit of probation has been afforded to the petitioner who was convicted for the commission of offence punishable under Sections 279 and 304-A of IPC.

26. Taking into consideration all the above discussed mitigating circumstances, it is hereby observed that the sentence already undergone by the petitioner is sufficient to meet the ends of justice. However, in view of the fact that loss of life was suffered by the family members of deceased it is hereby held appropriate that a direction be given to the petitioner to pay compensation of Rs.1,00,000/- to the legal heirs of deceased Dharam Chand. In view of above mentioned observations the present revision petition is hereby **partly allowed**. The judgment of conviction passed by the learned trial Court, and duly upheld by the learned Appellate Court, are hereby affirmed. However, with regard to order on quantum of sentence the same is hereby modified as under:-

279 IPC	To undergo imprisonment for a period he has already undergone in the present petition.	Fine of Rs.500/-. In default of payment of fine, to undergo rigorous imprisonment for fifteen days.
304-A IPC	To undergo imprisonment for a period he has already undergone in the present petition.	Fine of Rs.1000/-. In default of payment of fine, to undergo rigorous imprisonment for one month.

27. In addition to above, the petitioner is directed to pay an amount of Rs.1,00,000/- as compensation to the legal heirs of the deceased/victim. The compensation may be deposited in the learned trial Court and the learned trial Court shall disburse the same amongst the legal heirs of deceased/victim in equal shares.



28. The present petition stands partly allowed accordingly.
Pending miscellaneous application(s), if any, also stands disposed
of.

(SURYA PARTAP SINGH)
JUDGE

Pronounced on :28.04.2026
Manoj Bhutani

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