CNR No:PHHC010349432023
2026:PHHC:104415

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-785-2023

RATAN LAL SHARMA

..... Petitioner

VERSUS

STATE OF PUNJAB

..... Respondent

1.	Judgment reserved on	18.05.2026
2.	Judgment pronounced on	30.07.2026
3.	Judgment uploaded on	30.07.2026
4.	Whether only operative part of the judgment is pronounced or whether the full judgment is pronounced.	Full
5.	The delay, if any of the pronouncement of full judgment and reason thereof.	Nil

CORAM: HON'BLE MR. JUSTICE YASHVIR SINGH RATHOR

Argued by : Mr. S.K. Choudhary, Advocate
for the petitioner.

Ms. Niharika Sharma, AAG, Punjab.

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YASHVIR SINGH RATHOR, J.

1. Present revision petition has been filed against the order dated 17.12.2022 passed by the learned Sessions Judge, Pathankot, in SC-101/2022, whereby charge has been framed against the petitioner for the offence under Section 304 of the Indian Penal Code, 1860 (hereinafter referred to as 'IPC'), as well as the commitment order dated 23.11.2022 passed by the learned Judicial Magistrate 1st Class, Pathankot, vide

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which the case was committed to the Court of Sessions for trial in FIR No. 103 dated 16.06.2022, registered at Police Station Division No.2, Pathankot.

2. The present case was registered on the basis of statement given to the Police by Abhishek Saini son of Pawan Kumar, resident of Village Azizpur Khurd, Police Station Sadar, Pathankot, with the allegations that on 16.06.2022 at about 05:00 AM, his father Pawan Kumar, who was employed in Punjab Police, District Pathankot, left home on his motorcycle bearing No. PB-35-K-7641 to attend VVIP duty. The complainant along with his uncle Kans Raj Saini was following his father in his car bearing No. PB-35-AF-7637. At about 06:00 AM, when his father was going from Dhira Mor to GT Road, truck bearing No. JK-02-AJ-6877, which was being driven by the petitioner Rattan Lal Sharma, came from Dhaka Chowk, Pathankot side at a very high speed and rammed into his motorcycle, as a result of which his father fell on the road and the iron angle of the truck went through his abdomen resulting in his death on the spot. The driver of the truck fled from the spot after the accident.

3. ASI Harpreet Singh of Police Station Division No. 2, Pathankot, recorded the statement of the complainant, made an endorsement on the same, and sent ruqa to the Police Station, on the basis of which formal FIR was registered under Section 304 IPC. The Investigating Officer visited the place of accident, prepared the site plan,

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took into possession the accidental motorcycle and truck, conducted inquest proceedings, and got the post-mortem of the deceased conducted. Petitioner was arrested on the same day. After completion of the investigation, the final report under Section 173 Cr.P.C. was presented in the Court for trial.

4. Copy of the challan was supplied to the accused, and the case was committed to the Court of Sessions by the learned Judicial Magistrate 1st Class, Pathankot, vide order dated 23.11.2022.

5. After hearing the parties, learned Sessions Judge, Pathankot, vide the impugned order dated 17.12.2022, held that a *prima facie* offence under Section 304 IPC is made out and accordingly framed charge against the petitioner under Section 304 IPC, to which the petitioner pleaded not guilty and claimed trial.

6. Feeling aggrieved, the present revision petition has been instituted. The trial Court record has been received and perused, and learned counsel for the petitioner as well as learned State Counsel have been heard.

7. Learned counsel for the petitioner argued that the trial Court has committed grave illegality and material irregularity in framing charge under Section 304 IPC against the petitioner. He contended that it was a sudden roadside accident on a highway with no previous enmity or relation between the petitioner and the deceased. There was no *mens rea*, criminal motive, or intention on the part of the petitioner to cause death.

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The accident unfortunately occurred due to the sudden entry of the deceased on his motorcycle at a turn while the petitioner was already driving the truck on the highway. He further contended that the prosecution registered the FIR under Section 304 IPC solely because the deceased was an employee of the police department. Learned counsel submitted that at the most, the ingredients of offences under Sections 279/304-A IPC are made out from the report under Section 173 Cr.P.C., and therefore, the charge under Section 304 IPC is liable to be set aside.

8. On the other hand, learned State Counsel opposed the contentions and submitted that the petitioner was driving the heavy vehicle at a very high speed in a residential area. He referred to the disclosure statement of the petitioner wherein he admitted that he was driving the truck at a fast speed to cross the police nakas, knowing that it was a residential area along the road where he should not have been driving at such a high speed. He argued that the petitioner had the knowledge that his high-speed driving was likely to cause death, thereby bringing the case within the ambit of Section 304 IPC. Learned counsel contended that the impugned order does not suffer from any illegality and the petition be dismissed.

9. After going through the material on the file and hearing the parties, I am of the considered opinion that the petition in hand deserves to be allowed for the reasons discussed hereinafter.

10. To attract the provisions of Section 304 IPC (Culpable

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homicide not amounting to murder), there must be an intention to cause death, or such bodily injury as is likely to cause death, or knowledge that the act is likely to cause death. In a roadside accident resulting from rash and negligent driving of a vehicle, the offence falls under Section 279/304-A IPC unless there are specific circumstances indicating that the driver had the intention or knowledge that his act would cause death. In the present case, a bare perusal of the FIR and the final report under Section 173 Cr.P.C. clearly shows that it was a sudden roadside traffic accident. The petitioner and the deceased were complete strangers, having no prior acquaintance or enmity, which completely rules out any intention or such bodily injury as is likely to cause death or knowledge that the act is likely to cause death.

11. The prosecution's reliance on the petitioner's disclosure statement that he was driving at a high speed to cross the police nakas cannot be construed as having the requisite "knowledge" that his act was likely to cause the death of the deceased or any other road user. Rather, the same is not admissible in evidence as it is hit by Section 25 of Evidence Act. Learned Sessions Judge thus committed a grave error in failing to appreciate that the facts *prima facie* disclose only an offence under Section 279/304-A IPC.

12. As a result of the aforesaid discussion, the petition in hand is allowed. The commitment order dated 23.11.2022 and the impugned order dated 17.12.2022 passed by the learned Sessions Judge, Pathankot,

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framing charge under Section 304 IPC are hereby set aside and petitioner is discharged for the offence under Section 304 IPC. The matter is remitted to the trial Magistrate for proceeding further in accordance with law and in the light of observations made above.

30.07.2026 **(YASHVIR SINGH RATHOR)**
Priyanka Thakur **JUDGE**

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

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