

**IN THE COURT OF MS. RAJANDEEP KAUR BILLING
JUDICIAL MAGISTRATE IST CLASS, SANGRUR
UID NO. PB0580**

CNR No. PBSG030015722021

CHI No. : 151 of 07.05.2021

Date of Decision: 29.01.2024

State of Punjab

Versus

1. Rattandeep Singh son of Mukhtiar Singh (already convicted vide order dated 01.11.2021)
2. Gurmehar Singh son of Darshan Singh (already convicted vide order dated 01.11.2021)
3. Jaswant Singh son of Jangir Singh, all resident of Sangheri, District Sangrur.

---Accused.

FIR No. 124 dated 11.05.2020

Under Sections 188 of IPC.

Police Station Bhawanigarh

Present: Sh. Navdeep Goyal, Ld. APP for the State.
Accused Rattandeep Singh and Gurmehar Singh already convicted vide order dated 01.11.2021.
Accused Jaswant Singh on bail with counsel Sh. S.S. Rattol Advocate.

JUDGMENT :

The accused have been sent up to face trial under Section 188 IPC, by SHO PS Bhawanigarh. Accused namely Rattandeep Singh and Gurmehar Singh already convicted vide order dated 01.11.2021 and trial has been faced by accused Jaswant Singh.

Prosecution Case

2. Adumbrated in brief, the facts of prosecution case are that on 11.05.2020 IO ASI Gurtej Singh alongwith police party were present at PP Gharachon, then MHC handed over him a letter No. SPL5/dada kaka dated 10.05.2020 for taking legal action issued by concerned Tehsildar Bhawanigarh against Jaswant Singh, Rattandeep Singh and Gurmehar

Singh, R/o Village Sangrehri as they have disobeyed the order of stubble burning and caused danger to human life and also violated the order No. 128 MA dated 21.04.2020 passed by the then ADM, Sangrur and the same was entrusted to him. He typed police proceedings and sent the through SC Sukhchain Singh for registration of FIR. On the basis of police proceedings FIR was registered by SI Amrik Singh. Rough site plan was prepared.

On 12.05.2020 IO ASI Gurtej Singh was present at police post Gharachon with police party in connection with investigation in the present case then member Panchayat Naib Singh produced accused Rattandeep Singh son of Mukhtiar Singh and Gurmeher Singh son of Darshan Singh before him. He joined them in investigation and arrested them through arrest-cum-intimation and personal search were conducted. Statement of witnesses recorded. On 13.05.2020 IO ASI Gurtej Singh was present at PP Gharachon, accused Jaswant Singh was produced by Bhupinder Pal and he joined him in investigation. Accused was arrested vide arrest-cum-intimation and his personal search was conducted. Statement of witnesses were recorded.

After completion of investigation the Challan was presented in the Court.

Compliance of Section 207 Cr.P.C.

3. The copies of the Challan and documents appended therewith were supplied to the accused, free of costs, as envisaged under Section 207 Cr.P.C.

Framing of Charge

4. From the perusal of the police report sent by the police under Section 173 Cr. P. C. (Challan) and the documents referred therein, a prima-

facie case under Sections 188 of the Indian Penal Code was made out against the accused Jaswant Singh and he was charge-sheeted by the Ld. Predecessor of this Court, to which he pleaded not guilty and claimed trial. The case then proceeded for recording of prosecution evidence.

Prosecution Evidence

5. In support of its case, the prosecution examined the following witnesses. The detail of witnesses examined by the prosecution, the documents proved by them and the detail of case property are hereby put in brief.

List of witnesses.

PW No.	Name of witnesses	Detail of witnesses	Brief testimony by witnesses
1.	ASI Gurtej Singh	Investigating Officer	He proved the inquiry conducted by him.
2.	Deepak Sharma	Junior Assistant, MA Branch, DC Office, Sangrur	He proved the order No. 128/MA dt. 21.04.2020.
3.	Bhagwan Singh	Patwari	He proved the ownership of Jaswant Singh and Rattandeep Singh and Gurmehar Singh.
4.	Bhupinder Pal Singh	Produce accused	He proved the arrest of the accused Jaswant Singh.
5.	Gurleen Kaur	Tehsildar	He proved the letter No. SPL5/DK dt. 10.05.2020 Ex. P1/A.

List of documents Exhibited

Sr. No.	Exhibit No.	Name of the document	Name of the witnesses who testified the documents
1.	Ex. P1/A	Letter No. SPL5/dada kaka	PW-1 ASI Gurtej Singh PW-5 Gurleen Kaur

2.	Ex. PX	Order No. 128 MA dt. 21.04.2020 passed by the then ADM, SAngrur	PW-1 ASI Gurtej Singh
3.	Ex. P1/B	Police proceeding	PW-1 ASI Gurtej Singh
4.	Ex. P1/C	FIR	PW-1 ASI Gurtej Singh
5.	Ex. P1/D	Endorsement	PW-1 ASI Gurtej Singh
6.	Ex. P1/E to Ex. P1/G	Rough site plan	PW-1 ASI Gurtej Singh
7.	Ex. P1/H	Arrest-cum-intimation of accused Rattandeep Singh and Gurmehar Singh	PW-1 ASI Gurtej Singh
8.	Ex. P1/I & Ex. P1/J	Personal search of accused Rattandeep Singh and Gurmehar Singh	PW-1 ASI Gurtej Singh
9.	Ex. P1/K	Arrest-cum-intimation of accused Jaswant Singh	PW-1 ASI Gurtej Singh PW-4 Bhupinder Pal Singh
10.	Ex. P1/L	Personal search of accused Jaswant Singh	PW-1 ASI Gurtej Singh PW-4 Bhupinder Pal Singh
11.	Ex. P1/M & Ex. P1/N	Jamabandi	PW-1 ASI Gurtej Singh PW-3 Bhagwan Singh
12.	Ex. P2/A	Order No. 128/MA dt. 21.04.2020	PW-2 Deepak Sharma
13.	Ex. P2/B	Complaint	PW-2 Deepak Sharma

Thereafter, Ld. APP for State closed the prosecution evidence.

Statement of accused u/s 313 on Cr.P.C.

6. Statement of accused under Section 313 Cr. P.C was recorded wherein all the incriminating evidence appearing against him were put to him to which he denied all the allegations leveled against him and stated that he is innocent and has not committed any offence as no occurrence took place and he has been falsely implicated in the present case and the accused opted to lead defence evidence.

Defence Evidence

7. To rebut the prosecution case, the defence had not led any evidence in support of accused and Ld. counsel for accused Jaswant Singh closed the evidence on behalf of him.

Arguments

8. Ld. APP for the State as well as ld. defence counsel have been heard and the record of the case has been perused carefully. Ld. APP for State has contended that prosecution has duly proved its case that on 09.05.2020 in the area of Village Sangheri, Sangrur, accused were found burning wastage of paddy crop in violation of the order No. 128/MA dated 21.04.2020 passed by the then ADM, Sangrur imposing the ban on the same. Hence, prayed for conviction of accused.

9. On the other hand, the ld. Defence counsel has contended that no independent witnesses to the alleged occurrence has been examined by the prosecution to support its version. Therefore, he prayed for acquittal of the accused on the basis of benefit of doubt.

10. Ld. APP for the State as well as ld. defence counsel have been heard and the record of the case has been perused carefully.

POINT OF DETERMINATION

11. After hearing arguments of both the parties and perusal of the case file minutely, following point of determination are made out:-

A) Whether on 09.05.2020 in the area of Village Sangheri, Sangrur, accused Jaswant Singh was found burning wastage of paddy crop in violation of the order No. 128/MA dated 21.04.2020 passed by the then ADM, Sangrur imposing the ban on the same. Hence, prayed for conviction of accused ?

Reasons for Determination

12. After hearing ld. APP for State and ld. Defence counsel, this

Court is of the considered view that main allegation against the accused are that on 09.05.2020 in the area of Village Sangheri, Sangrur, accused Jaswant Singh was found burning wastage of paddy crop in violation of the order No. 128/MA dated 21.04.2020 passed by the then ADM, Sangrur imposing the ban on the same. Hence, prayed for conviction of accused and in order to prove it, the prosecution has examined five witnesses.

13. The prosecution has examined ASI Gurtej Singh as PW-1, who stated that on 11.05.2020 he alongwith police party present at PP Gharachon, then MHC handed over him a letter No. SPL5/dada kaka Ex.P1/A dated 10.05.2020 for taking legal action issued by concerned Tehsildar Bhawanigarh against Jaswant Singh, Rattandeep Singh and Gurmehar Singh, R/o Village Sangrehri as they have disobeyed the order of stubble burning and caused danger to human life and also violated the order No.128 MA dated 21.04.2020 passed by the then ADM, Sangrur and the same was entrusted to him through endorsement Ex.PX. He typed police proceedings Ex.P1/B and sent through SC Sukhchain Singh for registration of FIR. On the basis of police proceedings FIR Ex.P1/C registered by SI Amrik Singh and endorsement of the same is Ex.PI/D. He alongwith police party reached at the place of occurrence and prepared rough site plans Ex.PI/E to Ex.P1/G. On 12.05.2020 he was present at police post Gharachon with police party in connection with investigation in the present case then member Panchayat Naib Singh produced accused Rattandeep Singh son of Mukhtiar Singh and Gurmehar Singh son of Darshan Singh before him. He joined him in investigation and arrested him through arrest cum intimation memo Ex.P1/H. Personal search of accused was conducted through personal search memos Ex.P1/I and Ex.P1/J. He recorded the statement of the witnesses. On

13.05.2020 he was present at PP Gharachon, accused Jaswant Singh was produced by Bhupinder Pal and he joined him in investigation. He arrested him through arrest cum intimation memo Ex.P1/K. Personal search of accused was conducted through personal search memo Ex.PI/L. On 02.02.2021 he has recorded the statement of Halqa Patwari and also obtained the revenue record of Village Sangrehri of Jamabandi for the year 2017-2018 of khewat No.281/251 in which the name of accused Rattandeep Singh and Gurmehar Singh is mentioned and also obtained the record of Jamabandi for the year 2017-2018 of khewat 28/26, 29 khatoni no.36 in the name of Jaswant Singh son of Jagir Singh. He has seen the original jamabandi and the same are Ex.P1/M and Ex.PI/N. During investigation, he recorded the statement of witnesses. He identified the accused Jaswant Singh present in the Court.

14. The prosecution has further examined Deepak Sharma, Junior Assistant, MA Branch, DC Office, Sangrur as PW-2, who proved the record of order no. 128/MA dated 21.04.2020 passed by the then Additional District Magistrate Sh. Rajesh Tripathi, PCS, Sangrur is Ex.P2/A alongwith complaint under Section 195 Cr.P.C. passed by the then Additional District Magistrate Sh. Anmol Singh Dhaliwal, PCS, Sangrur. He identified his signature as he has received number of documents signed by him. Complainant is Ex.P2/B.

15. The prosecution has further examined Bhagwan Singh, Patwari at Village Sangrehri as PW-3, who deposed that he has brought the original record pertaining to khewat no.28, khewat No.281 of Village Sangrehri. As per the record Jaswant Singh son of Jangir Singh is owner of land 46 kanal and 3 marla in khewat no.28 khatauni no. 36. As per record Rattandeep

Singh has 21/635 part of the land and Gurmehar Singh son of Darshan Singh has 42/635th part of the land in khewat no. 281 khatuni no.416. Today, I have seen the jamabandi for the year 2017-2018 on the judicial file regarding the above said land and the same is Ex.P1/M and Ex.P1/N and the same is true as per the original record brought by him.

16. The prosecution has further examined Bhupinder Pal Singh as PW-4, who deposed that on 13.05.2020 he along-with accused Jaswant Singh son of Jangir Singh came present in the PP Gharachon. IO joined the accused Jaswant Singh in the investigation and arrested vide arrest-cum-intimation memo already Ex.PI/K. Personal search was conducted vide memo already Ex.PI/M. IO recorded his statement. He identified the accused Jaswant Singh present in the Court

17. The prosecution has further examined Gurleen Kaur as PW-5, who stated that on 09.05.2020, she has received report regarding stubble burning by Jaswant Singh son of Jangir Singh, Rattandeep Singh son of Mukhtiar Singh and Gurmehar Singh son of Darshan Singh from agriculture development officer Mandeep Singh. Thereafter, on 10.5.2020, she has issued letter no. SPL5/DK dated 10.5.2020 Ex.P1/A to SHO Bhawanigarh. She identified her signatures on the same.

18. The prosecution has unable to prove the case against the accused Jaswant Singh for the reasons cited below:-

i) Firstly, the complainant appeared in witness box as PW-5 and deposed to the effect that she has received report regarding stubble burning by Jaswant Singh son of Jangir Singh son of Bakshish Singh, Rattandeep Singh son of Mukhtiar Singh son of Lachman Singh and Gurmehar Singh son of Darshan Singh son of Lachman Singh from agriculture development

officer Mandeep Singh. Thereafter, she sent a letter No. SPL5/DK dt. 10.05.2020 Ex. P1/A to SHO Bhawanigarh for filing the complaint against the accused on the request of Agriculture Development Officer but perusal of the file reveals that no such witness has been examined by the prosecution in evidence nor any such request has been produced before the Court. Further PW-5 stated in her cross-examination that she has not visited the place of occurrence. She has not seen the incident and has not seen the accused at the spot. She has only issued letter to the SHO.

ii) Another point adding dis-credibility to the prosecution version that nowhere it has come on the file that the fire was put to the paddy crops in khewat No. 28 khatauni No. 36 and in this regard, the prosecution has placed reliance on the evidence of Bhagwan Singh Patwari as PW-3 who has brought the record of these khewat No. 28, khewat No. 281 of Village Sangheri. Perusal of the khewat No. 281 Ex. P1/M shows that apart from accused No. 3 and accused No. 1 and 2, there are many other co-sharer in the property and property is not yet partitioned and prosecution has failed to bring any witness who could prove that fire was put in portion in specific possession of accused No. 3.

iii) Although, the confession of co-accused can be used as evidence against another accused as corroborative evidence but in the instant case, the confession of the co-accused Rattandeep Singh and Gurmehar Singh is not of much relief since that apart from accused Rattandeep Singh and Gurmehar Singh and accused Jaswant Singh, there are other co-sharer in the khewat No. 281 and accused Jaswant Singh is not the only co-sharer in the said property. As far as khewat No. 28 is concerned, only Jaswant Singh accused is owner. The perusal of the Ex. P1/N shows that accused No. 3

Jaswant Singh is shown as owner so the confession of the other accused has no effect on the case of the prosecution against the accused No. 3 Jaswant Singh.

19. Thus, in view of the reasons discussed above, the accused Jaswant Singh present in the court is hereby acquitted of the charges levelled u/S 188 IPC against him in instant FIR. He is set at liberty. Case property, if any be dealt with as per rules. File be consigned to the record room after due compliance.

Announced in open Court
Dated: 29.01.2024

(Rajandeep Kaur Billing)
Judicial Magistrate First Class,
Sangrur. UID-PB0580

Pirya, Steno-III