

**IN THE COURT OF SH. ANKIT AIRI, PCS,
JUDICIAL MAGISTRATE 1st CLASS,
AJNALA**

CHI/155/2019

CNR No.PBASA10012912019

Date of Institution – 09.10.2019

Date of Decision – 04.08.2022

State

versus.

Karam Singh @ Buta Singh s/o Shingara Singh, r/o village Bhindi
Saidan, Tehsil Ajnala, District Amritsar.

....Accused

FIR No. 02 of 04.01.2019,
U/s. 188 of IPC,
P.S Bhindi Saidan, Ajnala.

Present:- Sh.Amandeep Singh, Ld. APP for the State.
Accused on bail.
(Represented by counsel Sh.J.S. Chauhan, Adv.).

J U D G M E N T

1. The above named accused person has been sent up by the
SHO, P.S Bhindi Saidan, Ajnala, to face trial under Section 188 of Indian

Penal Code, 1860.

2. Tersely, the case of the prosecution against the accused is that on 04.01.2019, he had allegedly violated the order dated 19.07.2018, passed by the District Magistrate, Amritsar, by selling the synthetic/plastic China thread. The case was based upon a secret information and eventually the accused was arrested 14 units of Chinese thread. The investigation was conducted. Statement of witnesses were recorded under Section 161 of Cr.P.C., 1973. Accused was arrested and later on, released on bail. After completion of investigation and necessary formalities, the instant challan was presented against the present accused to face trial.

3. Copies of the challan were supplied to the accused free of cost as required under Section 207 of Cr.P.C., 1973. Thereafter, on finding a *prima-facie* case, a charge for the offence punishable U/s 188 of Indian Penal Code, 1860 was framed against the accused. The same was read over and explained to the accused in his own language, to which, he pleaded not guilty and claimed trial.

4. In order to prove its case, the prosecution examined one ASI Agyapal Singh, the IO of this case, as PW1, who proved on record the 'Rukka' as Ex.P1, FIR as Ex.P2, the recovery memo as Ex.P3, arrest memo as Ex.P4, personal search memo as Ex.P5, site plan as Ex.P6 and order of District Magistrate as Ex.P7. Constable Jagroop Singh was then examined as PW2, who also deposed in the same lines as that of PW1. Thereafter, as the accused admitted the authenticity of the documents the 'Rukka' Ex.P1, FIR Ex.P2, the recovery memo Ex.P3, his arrest memo

Ex.P4, personal search memo Ex.P5, site plan Ex.P6 and order of District Magistrate Ex.P7, under Section 294 of Cr.P.C., 1973, the prosecution evidence was closed by the Ld.APP for the State.

5. Statement of the accused was then recorded under Section 313 of Cr.P.C., 1973, by putting forth all the incriminating circumstances appearing against the accused in prosecution evidence. In response thereto, he stated that he was not aware of the order of the DM, however, he admitted the factum of the recovery of China thread.

6. Learned APP for the State has contended that sufficient evidence has been led by the prosecution for recording the findings to the effect that accused has committed the alleged offence. Accordingly, he be punished.

7. The learned defence counsel has contended that the criminal liability of the accused can't be fastened upon without proving the guilt of accused beyond reasonable doubt. As such, accused is liable to be acquitted.

8. I have heard the learned APP for the State and also the learned counsel for the defence and with their able assistance have gone through the evidence on record very carefully. As such, the following point arises for determination :-

“Whether on 04.01.2019, in the area of P.S. Bhindi Saidan, the accused had allegedly violated the order dated 19.07.2018, passed by the District Magistrate, Amritsar, by keeping China thread with himself?

9. Analyzing the evidence so made available on record by the prosecution, in the light of the respective contentions of both the sides, to my mind, there has nothing been on the case records, which could disprove the commission of the alleged offence against the accused.

10. In this case ASI Agyapal Singh, the IO of this case, was examined as PW1, who proved on record the 'Rukka' as Ex.P1, FIR as Ex.P2, the recovery memo as Ex.P3, arrest memo as Ex.P4, personal search memo as Ex.P5, site plan as Ex.P6 and order of District Magistrate as Ex.P7. Constable Jagroop Singh was then examined as PW2, who also deposed in the same lines as that of PW1. The said witnesses were cross-examined by the ld.defence counsel, but no perversity was there in the extract thereof. At this juncture, it must as well be borne in mind that the examination of the accused under Section 313 of Cr.P.C. 1973 is not a mere formality and the same has got a practical utility for the criminal courts in appreciating the evidence so put forth by the prosecution during trial. Reliance to that effect can be placed upon **"Rattan Singh vs. State of H.P., AIR 1997, SC 768"**. Result being, the aforesaid statement of the accused regarding the admission of the recovery of said contraband can also not be put to a complete disregard by the Court. In nutshell, the prosecution version of the events transpired has accordingly been duly proved beyond all realms of doubt and hence, offence so alleged against the accused stands duly proved as well. In view of the above said discussion, it is evident that prosecution witnesses have supported the case of the prosecution and there is nothing on record

which could lead the Court to lean in the favor of accused. Accordingly, I find the material on record to be sufficient enough to hold the accused person to be guilty of the offence punishable U/s 188 of IPC. Point of determination in hands stands adjudicated accordingly. Let the convict be taken into custody and be heard on the quantum of sentence.

Pronounced in open Court
Dated : 04.08.2022

(Naresh, STG Gr.II)

(Ankit Airi)
Judicial Magistrate Ist Class,
Ajnala.
UID Code – PB0455

Q U A N T U M O F S E N T E N C E

Present:- Sh.Amandeep Singh, Ld. APP for the State.
 Convict in custody.
 (Represented by counsel Sh.J.S. Chauhan, Adv.).

11. I have heard the convict on the quantum of sentence. He has prayed for taking lenient view in the matter of sentence, as he is a poor person and only bread winner of his family.
12. Learned APP for the has opposed these submissions.
13. Having regard to the rival submissions and keeping in view the gravity of offence involved, I am of the considered view that convict can be entitled to some leniency. As such, he is hereby sentenced to undergo imprisonment as follows :-

Under Section	Sentence	Fine.
188 of IPC, 1860	Nil	Rs.200/- . In default of which to undergo Simple Imprisonment for 01 day.

14. Fine paid. Case property be dealt as per rules after the expiry of period of appeal/revision. A copy of this Judgment be provided to the convict, free of costs. File be consigned to the record room forthwith.

Pronounced in open Court
Dated : 04.08.2022

(Naresh, STG Gr.II)

(Ankit Airi)
Judicial Magistrate Ist Class,
Ajnala.
UID Code – PB0455