

**IN THE COURT OF SH. RAJIV KUMAR GARG, PCS,  
JUDICIAL MAGISTRATE 1<sup>ST</sup> CLASS, JALALABAD(W)**

CIS No.: CHI/145/2014.

Case No.: 100-1 of 16.10.2014.

Date of Decision: 16.10.2018.

**STATE  
VERSUS.**

1. Raman Kumar S/o Rajinder Kumar Arora R/o Maai Kakko Market Dhumra Street, Jalalabad(W),
  2. Sukhdev Singh S/o Manjit Singh Arora R/o near Kalu Di Chakki, Mohalla Rathore Wala, Jalalabad(W),
  3. Baljit Singh S/o Bakshish Singh R/o near old Moga Rice Mills. House No.120, Muktsar By-pass Road, Jalalabad,
  4. Rakesh Kumar S/o Mohan Lal, R/o House No.109, Chhabra Street, Jalalabad.
- .... ACCUSED.**

FIR No. 5 dated 10.01.2011,  
U/s 447/511/427/34 of IPC,  
P.S. City Jalalabad .

**PRESENT:** - Sh.Surinder Sachdeva, Ld. APP for the State.  
Accused on bail, present in Court with Counsel, Sh. K.S. Sandhu, Advocate.

**J U D G M E N T**

1. The above named accused persons Raman Kumar, Sukhdev Singh and Baljit Singh have been sent by SHO, PS City Jalalabad to stand trial for offence 447/511/427/34 of IPC.
2. The brief facts of the prosecution case are that on 10.01.2011, HC Darshan Singh alongwith HC Manjit Singh and other

police officials was present present at old bus stand in connection with patrolling on Government vehicle bearing No.PB05K-1091, which is being driven by HC Shavinder Singh. Where, complainant Chiman Singh S/o Narain Singh R/o Chak Arayian Wala @ Phallian Wala came present and he got recoded his statement with HC Darshan Singh to the effect that he is resident of above said address and a labour. He is in possession of 2 ¼ kanal of land near BSF Sector Phaliana Wala from last 15/16 years. On the Eastern side of his land, there is land measuring 3 kanals 16 marlas of Rakesh kumar and same was lying vacant. Rakesh Grover put the earth in the lower part of his house. He had also constructed the wall adjoining to the lower part of house about one month ago. On 09.01.2011 at about 8PM, he alongwith his family members was present in his residential house at his village. Then, Surinder Singh S/o Sardara Singh R/o village chak Arayiana Wala @ Phaliyan Wala came to him and told him that Rakesh Grover alongwith other 30/35 person are demolishing his wall with the help of tractor trolley. He came at the spot and saw that his wall was demolished and above said persons were demolishing the shop. He raised raula and got announcement through the speaker of village. On this, many villagers gather at the spot. Villagers also raised raula

then above said accused persons fled away from the spot by firing shots in the air leaving behind the tractor trolleys. Motive behind the occurrence is that Grover etc wanted to forcibly take possession over his land Grover. Due to that, Grover and above said persons tried to forcibly take possession over his land. A prayer was made by complainant for taking action against accused persons. From the statement of complainant, offences Under Section 447,511,427,148, 149 of iPC are made out against accused person. HC Darshan Singh sent ruqa through HC Harbajan Singh to Police Station for registration of FIR. After registering the FIR, HC Darshan Singh initiated further investigation. HC Darshan Singh inspected the spot and prepared site plan. HC Darshan Singh has taken the case property into police possession vide separate memos. Statement of witnesses were recorded. On returning to the police station, HC Darshan Singh handed over the case property to MHC Bhajan Singh. On 12.01.2011, accused persons Rakesh Kumar Grover S/o Mohan Lal, Raman Kumar S/o Jinder Kumar, Sukhdev Singh S/o Ajit Singh and Baljit Singh s/o Bakshish Singh were arrested and released on bail. On the application of Chiman Singh, Surjit Singh SP(H) Ferozepur conducted inquiry. During inquiry, accused Rakesh Kumar Grover S/o Mohan Lal was

found as innocent. Relevant memos were prepared. On completion of investigation, the challan was presented in the Court.

3. After hearing APP and defence Counsel, prima facie case was found to have been made out against accused U/s 447/427 of IPC. Accused persons Raman Kumar, Sukhdev Singh and Baljit Singh were charge sheeted accordingly. Contents were explained to them in Punjabi to which they pleaded not guilty and claimed trial.

4. In order to prove its case, the prosecution examined Chiman Singh as PW-1. It is pertinent to mention here that on 08.07.2015, Ld. APP for State moved an application U/S 319 of Cr.P.C. for summoning accused Rakesh Kumar Grover S/o Mohan Lal, R/o Jalalabad as additional accused which was allowed vide order dated 26.05.2016 and accused Rakesh Kumar Grover was ordered to be summoned.

5. Amended charge sheet Under Section U/s 447/427 of IPC Act has been framed against above said four accused persons. Charge was read over and explained to the accused persons in vernacular which they understood and pleaded not guilty and claimed to face trial.

6. In order to prove its case, the prosecution examined **Retired ASI Darshan Singh, I.O. of the case as PW1** and while stepping into witness box, this witness has deposed regarding the investigation part conducted by him and proved the documents i.e. statement of complainant as Ex.P1, signature of complainant on Ex.P1 as Ex.P2, his endorsement on the statement of complainant as Ex.P3, rapat as Ex.P4, FIR as Ex.P5, site plan as Ex.P6, memo vide which, one vehicle Bolero HR-51Y-2442 and tractor Mohindera D1-265 C No.pB-22-5162 were taken into police possession as Ex.P7, memo vide which one tractor make Asha bearing No.PB60-A-1078 was taken into police possession as Ex.P8, arrest memo of accused Rakesh Kumar, Sukhdev Singh, Baljeet Singh and Raman Kumar as Ex.P9 to Ex.P12, memo vide which RCs of recovered vehicle were taken into police possession as Ex.P13 to Ex.P16. Memo vide which copy of sale deed produced by Rakesh Kumar Grover as Mark A, copy of Khasra girdawari as Mark B, copy of Jamabandi as Mark C were taken into police possession as Ex.P17. He also proved case property as Mo1 to Mo3. After that, prosecution examined complainant **Chiman Singh as PW-2**, who while stepping into witness box has deposed on the lines on which the prosecution has preferred its story, so the same are not

repeated here for avoiding repetition. Besides, complainant proved his statement as Ex.P1 and his signature on it as Ex.P2. After that, prosecution examined **Surjit Singh as PW-3, Krishan Singh as PW4 Kewal Singh as PW6 and Surinder Singh as PW7** who corroborated and supported the version of PW2 complainant Chiman Singh. Prosecution also examined **ASI Harbhajan Lal as PW-5** who deposed in the Court that on 10.01.2011, he was posted at P.S. City Jalalabad on general duty. On that day, he was member of investigation party with I.O ASI Darshan Singh. During investigation, I.O Darshan Singh prepared memos i.e. arrest memo as Ex.P9 to Ex.P11, recovery memo as Ex.P7, Ex.P8, Ex.P16, arrest. Accused persons signed the above said memos. He attested the above said memos as witness. I.O recorded his statement. After that, prosecution examined **Amandeep Singh, RC Clerk, SDM, Officer as PW8** who deposed in the Court that he has brought the RC register regarding the present case. As per RC No.HR51222442, vehicle Bolero was transferred in the name of Raman Kumar S/o Rajinder Singh. He has seen original RC Ex.P13 which is correct as per his record. After that, **prosecution examined Jagjit Singh as PW9 ( wrongly written as PW-5)** who deposed in the Court that he has brought the concerned record i.e. original RC

register. The vehicle i.e. tractor make Eicher bearing RC No.PB-60-A-1078 in the name of Kuldeep Chadn S/o Harbans Lal, R/o Giddarbaha. The attested copy of the same is Ex.PX which is correct as per his record. After that, prosecution examined **Jaswinder Singh, Data Entry Operator, SDM, office, Fazilka as PW10(wrongly written as PW9)** who deposed in the Court that he has brought the concerned summoned record of RC bearing No.PB-22-5162. As per the record, the ownership of said vehicle was initially registered on the name of Swaran Singh S/o Pooran Singh R/o Ladhu Wala Uttar. On 07.02.2011, the ownership of the vehicle has been transferred in the name of Raman Kumar S/o Rajinder Kumar, R/o House No.390, Baba Bachan Dass Street, Jalalabad by RAMV, Jalalabad(W) vide entry No.96 dated 07.02.2011. He has seen the transfer entry in the Court in the RC Ex.P14 at point Ex.PW9/A which is correct as per the record brought by him in the Court. After that, prosecution examined **ASI Bhajan Singh as PW11( wrongly written as PW10)** who depose din the Court that on 10.01.2011 he was posted as MHC at P.S. City Jalalabad. On that day, HC Darshan Singh deposited the case property of the present case i.e. one vehicle Bolero bearing No.HR-51-Y-2442 a tractor Eicher bearing No.PB-60A-1078 and a tractor Mahindra

No.PB-22-5162 with him in the Malkhana, Police Station. He recorded the entry regarding the same in his register No.19 at entry No.1054-A. The abovesaid vehicles were released on sapurdari as per the orders of the Court. He has brought the concerned register ie. Register No.19 in the Court to prove this entry. Thereafter, Ld. APP for the State closed the prosecution evidence vide his separate statement dated 14.08.2014.

7.           Thereafter, the accused were examined U/s 313 Cr.P.C. wherein all the incriminating evidence appearing against the accused was put to them to which they denied all the allegations leveled against them by prosecution and pleaded themselves to be innocent and accused Raman Kumar claimed that he has been falsely implicated in the present case due to party fiction. The present case is counter blast. The present case was registered against him just to save skin from case which was registered by him against the complainant and others. Infact, complainant party has committed an offence and regarding the challan has been presented before the Court in case titled State Vs Chiman Singh. Accused Baljit Singh pleaded that he has been falsely implicated in the present case due to party fiction. One case has been registered by Raman Kumar i.e. complainant in the case titled State Vs Chiman Singh. He is the eye witness of the above said case just to put

pressure upon him, the complainant has falsely implicated in the present case. He is innocent and he has not committed any offence. Accused Sukhdev Singh pleaded that he has been falsely implicated in the present case due to party fiction. One case has been registered by Raman Kumar i.e. complainant in the case titled State Vs Chiman Singh. He is the eye witness of the above said case just to put pressure upon him, the complainant has falsely implicated in the present case. He is innocent and he has not committed any offence. Accused Rakesh Kumar pleaded that he has been falsely implicated in the present case due to party fiction. One case titled as State Vs Chiman Singh has been registered against the complainant and other, that case was registered by his manager namely Raman Kumar, he is the witness of above said case just to put pressure upon him for directing his manager to get compromise in the matter in question. He has been falsely implicated in the present case as he was not present at the spot which complainant alleged occurrence. In the present FIR, he was declared as innocent by the police. The accused were given opportunity to lead evidence in defence. However, they did not lead any evidence in defence and closed the same.

8. I have heard the respective submissions raised by Ld. APP for the State and Ld. Defence Counsel. In the statement U/s 161 of Cr.P.C. Chiman Singh S/o Narain Singh stated that on 09.01.2011 at about 8PM when he was sitting at his house then Surinder Singh informed him that Rakesh Grover and other 30/35 persons with the help of tractor trolleys are demolishing the wall of complainant when he came on the spot then they were demolishing the wall then he got the announcement regarding the same via speaker then number of persons gathered at the spot then accused fled away from the spot by giving fire shot in the air and by leaving their tractor trolleys at the spot. The cause of dispute is that Rakesh Grover etc want to take his land into their possession illegally. In order to prove his version, prosecution examined PW2 Chiman Singh S/o Narain Singh during his cross-examination stated that his shop was vacant on the day of occurrence and no article was lying there. The said construction was done by him by the Manson namely Joginder Singh S/o Joga Singh with "**mud**" formation. The alleged shop was demolished by accused persons is 9feet in width and 13feet in length. It was demolished up till its base line. Voluntarily said that shetter was also got damaged. PW3 Surjit Singh S/o Chiman Singh during his cross-examination stated that

Surinder Singh S/o Sardara Singh informed him that accused Rakesh Grover, Sukhdev Singh, Baljit Singh, Raman Kumar and other 30/35 unidentified persons were demolishing the wall and shop. When they reached at the spot then they were demolishing the shop with tractor trolleys make Mohindra and Bolero Jeep. Then, they raised hue and cry and number of people gathered at the spot. Accused persons fled away from the spot by leaving their tractor trolleys. It is correct that his father Chiman Singh is handicap from one leg and used to walk with the help of stick. Accused persons were not in possession of any other instruments to demolish the wall and shop except tractor trolley and Bolero canter. He got announcement by speaker in the Gurudawara which is at distance of 13 Karams. Accused fled away from the spot in his presence by giving fire shot in the air. He has seen the accused persons from 5 to 7 Karams. Tractor trolley was being driven by accused Raman Kumar and Baljit Singh. That wall was 50 to 60 feet in length and that whole of wall was got demolished with the help of tractor trolleys and with the help of 30/35 unidentified persons. Shop was also demolished in whole and iron shutter was also got damaged. Fire shots in the air was given by Rakesh Kumar Grover. But this fact was not in his statement given to the police. PW4 Kishan Singh S/o

Gajjan Singh during his cross-examination stated that when they reached at the spot then accused persons along with other 30/35 unidentified persons were demolishing the wall in the land of Chiman Singh and shop was also got damaged. When they reached at the spot, the accused persons fled away from the spot by leaving their tractor trolleys there and by giving gun shot in the air. The cause of dispute is that accused persons want to take illegal possession of the land of complainant Chiman Singh. It is correct that Chiman Singh is in possession of land in dispute from 20 years. Accused persons damaged the wall before he reached there. He reached there at about 8PM. It is correct that there was fog in the month of January but it was too cold. It is wrong to suggest that he has not seen accused persons committing the offence. The wall was approximately 100 meter in length and 5 feet in height and accused persons demolished the whole wall including two rooms and one verandha. PW Kewal Singh S/o Chiman Singh during his cross-examination stated that he identified accused Raman Kumar present in the Court and also other accused persons. He was also present at the place of occurrence. Accused were demolishing the wall with the help of two tractor trolleys. Again said, wall was not demolished in whole but partially with the help of tractor

trolley. Accused Baljit Singh and Raman Kumar were driving the tractor trolley and demolishing the wall. The shop was 10 to 11 feet in height but width of said is 10 to 12 feet. Again said, the shop was demolished as whole till their baseline. PW7 Surinder Singh S/o Sardara Singh during his cross-examination stated that he is a laborer. On the day of alleged occurrence he was going to purchase some domestic articles. When he was crossing the Nohra of Chiman Singh, then accused Rakesh Kumar, Raman Kumar, Baljit Singh and Sukhdev Singh with the help of tractor trolley were demolishing the wall and shop of the complainant. Then, Surjit Singh got announcement by speaker in Gurudawara. He identified accused persons present in the Court. The length of wall was 150 meter and height of the same was 6 ½ to 7 feet. The accused persons demolished the whole of wall and whole of the shop with the help of tractor trolley and they demolished wall and shop within 10 to 15 minutes because accused persons were in 30 to 35 numbers. Baljit Singh and Raman Kumar were driving the tractor trolleys. Rakesh Kumar given gun shot in the air. PW11 ASI Bhajan Singh during his cross-examination stated that tractor trolley and Bolero were in damaged position.

9. Hence, prosecution has duly proved the guilt of accused

persons and after going through the oral as well as documentary evidence as from the cross-examination of witnesses and suggestion put by defence Counsel, this Court is of the considered view that the prosecution has duly proved guilt of accused persons beyond shadow of reasonable doubts because admittedly the alleged tractor trolleys alongwith Bolero Canter belongs to accused persons including Mohan Lal and Rakesh Grover and the land of accused persons is adjoining to the land of complainant Chiman Singh, when this fact has been duly admitted that tractor trolley belongs to accused persons and at the time of alleged occurrence were standing in the land of Rakesh Grover shows in the suit land Ex.P6, then how Chiman Singh and accused persons got the keys to start that tractor trolleys with intention to demolish the alleged wall. Even if accused persons failed to prove that tractor trolleys could have been started without the help of keys which cast serious doubts upon the story of accused persons/defence that complainant Chiman Singh and other by entering into the land /Nohra of Rakesh Grover demolished the wall , room and verandha with the help of tractor trolleys standing in the Nohra of Rakesh Grover because PW Baljit Singh in cross-case titled as State Vs Chiman Singh stated that when he reached place of occurrence, there

was only one tractor and it was not driven by any one and it was standing off, that means the witness of accused in the present case admitted that complainant Chiman Singh etc were not driving the tractor trolley and demolished the wall. Hence, question arises who were the accused persons who demolished the alleged wall as well as shop of the complainant Chiman Singh and from the above discussion, it has been duly proved that it was accused Raman Kumar and other person who demolished the alleged wall as well as shop of complainant Chiman Singh whereas prosecution duly proved that alongwith accused persons, there was other 30 to 35 persons who demolished the wall within 10 to 15 minutes and plea of defence Counsel that such a long wall cannot be demolished within few minutes but here the plea of defence Counsel is not admitted because admittedly that wall was constructed of mud and if it was demolished with the help of tractor trolley by 30/35 persons Then, it can be reasonably expected that it shall not take more than 10 to 15 minutes to demolish the wall. Hence, this fact also goes against the accused persons.

10. Further, it is plea of defence Counsel that why the accused persons shall demolish rooms and verandhas existing in the land of accused persons as shown in the site plan with the help of tractor

trolley, here it can safely be said that if it had been intention of complainant Chiman Singh and other to take illegal possession of land of Rakesh Grover etc by demolishing the wall with the help of tractor trolleys, then they must have come with tractor trolley alongwith number of other persons to take illegal possession after demolishing the alleged wall but nothing has been proved against complainant Chiman Singh and others by the prosecution in that case and moreover no tractor trolley or other instruments to demolish the wall, rooms, verandha etc taking into possession by the police which was owned or possessed by Chiman Singh and other but the tractor trolleys and Bolero Canter were taken into possession by police only belongs to accused persons including Mohan Lal and Rakesh Grover, then this fact also goes against accused persons that they were aggressors and hence they in order to commit the commission of offence and also take illegal possession of land of Chiman Singh and others demolished the alleged wall with the help of tractor trolleys alongwith number of persons and plea of accused that number of prosecution witnesses stating different dimension of alleged shop is also not fatal to the case of prosecution because these are minor contradictions and minor contradictions cannot be taken to be hurdle in the imparting of justice

because it is settled law that if there comes minor contradictions in the statement of witnesses due to elapse of long time between the occurrence and the evidence then natural variation are bound to happen. Further, the plea of accused that why they will demolish their own rooms and verandha as shown in the site plan and the same plea is also applicable upon the Chiman Singh and other that why they will demolish their own wall and shop in dispute. Moreover, when no incriminating articles i.e. instrument & tractor trolley found from the possession of Chiman Singh etc and even not owned by them and this fact also goes against the accused persons.

11. In view of above detailed discussion, the charges leveled against the accused persons for the offences under sections 447/427 of IPC against the accused persons stands proved and established as per requirement of law beyond every kind of shadows of doubt. As such, accused persons are hereby held guilty for the commission of offence Punishable Under Section 447/427 of IPC . They are convicted for offences Punshiable Under Section 447/427 of IPC. Let the convict be heard on the quantum of sentence.

**Pronounced in open Court on:**  
**16.10.2018**  
**Ashish Dhawan**  
**Stenographer grade-II**

**(Rajiv Kumar Garg),PCS,**  
**Judicial Magistrate Ist Class,**  
**Jalalabad**  
**UID No.: PB-0476.**

**QUANTUM OF SENTENCE:**

Present:- Sh. Surinder Sachdeva, Ld. APP for the State.

Convicts Raman Kumar, Sukhdev Singh, Baljit Singh and  
Rakesh Kumar with Counsel, Sh. K.S. Sidhu, Adv.

12. I have heard the convicts on the quantum of sentence, who has prayed for leniency on the ground that they are a first offender. As no previous conviction has been attributed to accused persons/convicts, so lenient view is taken and accused persons/convicts are sentenced as under:

| Sr.No. | Name of Accused | Offence | Sentence                                                                                                              |
|--------|-----------------|---------|-----------------------------------------------------------------------------------------------------------------------|
| 1.     | Raman Kumar     | 447 IPC | R.I for 3 months and Fine to the tune of Rs.500/-& in default of payment of to further undergo S.I for 5 days.        |
|        | -do-            | 427 IPC | R.I for one year and Fine to the tune of Rs.7000/-& in default of payment of fine to further undergo S.I for 10 days. |
| 2.     | Sukhdev Singh   | 447 IPC | R.I for 3 months and Fine to the tune of Rs.500/-& in default of payment                                              |

of to further  
undergo S.I for  
5 days.

-do- 427 IPC

R.I for one year  
and Fine to  
the tune of Rs.7000/-& in  
default of payment of fine  
to further undergo S.I for  
10 days.

3. Baljit Singh 447 IPC

R.I for 3 months and  
Fine to the tune of  
Rs.500/-& in  
default of payment  
of to further  
undergo S.I for  
5 days.

-do- 427 IPC

R.I for one year  
and Fine to  
the tune of Rs.7000/-& in  
default of payment of fine  
to further undergo S.I for  
10 days.

4. Rakesh Kumar 447 IPC

R.I for 3 months and  
Fine to the tune of  
Rs.500/-& in  
default of payment  
of to further  
undergo S.I for  
5 days.

-do- 427 IPC

R.I for one year  
and Fine to  
the tune of Rs.7000/-& in  
default of payment of fine  
to further undergo S.I for  
10 days.

All the sentences shall run con-currently. The period of detention of convicts during investigation and trial of this case shall be set off towards substantive sentence awarded to them.

**In the case of “Ankush Shivajit Gaikward Vs State of Maharashtra, 2013(2), RCR Criminal 1036”** wherein the Hon'ble Supreme Court of India held that after order of conviction, it is mandatory duty of the Court to consider the question of award of compensation to the victim and it is discretion of the Court to award or not to award compensation and occasion to consider the question of award of compensation would logically arises only after record the conviction of case and capacity of the accused to make compensation would involve certain summary inquiry. Hence, this power is ancillary to other sentences but in addition thereto.

Accused heard as per mandatory provision of Section 357 of Cr.P.C. Complainant is entitled to compensation of Rs.30,000/- as per provision of section 357 of Cr.P.C. File be consigned to the record room.

**Sd/-**

Pronounced in open Court on:  
16.10.2018  
Ashish Dhawan  
Stenographer grade-II

(Rajiv Kumar Garg),PCS,  
Judicial Magistrate Ist Class,  
Jalalabad  
UID No.: PB-0476.

**State Vs Raman Kumar & Ors**

Present: - Sh. Surinder Sachdeva, Ld. APP for the State.

All accused persons on bail, present in the Court with Counsel, Sh. K.S. Sandhu, Advocate.

Accused are directed to furnish bonds in the sum of Rs.30,000/- with one surety in the like amount as per section 437-A Cr.PC. Requisite bonds furnished, which are accepted and attested. Accused persons closed their defence evidence. Arguments heard. Vide my separate detailed judgment of even date, accused persons have been Convicted for 3 months and fine Rs.500/- each in section 447 of IPC, 1 year and fine of Rs.7000/- each in Section 427 of IPC. The complainant is also entitled to compensation of Rs.30,000/- as per provision of section 357 of Cr.P.C. Fine amount paid. After due compliance, file be consigned to the record room.

**Sd/-**

**Pronounced in open Court on:  
16.10.2018**

**Ashish Dhawan  
Stenographer grade-II**

**(Rajiv Kumar Garg),PCS,  
Judicial Magistrate Ist Class,  
Jalalabad  
UID No.: PB-0476.**

**State Vs Raman Kumar & Ors**

Present:- Sh. Surinder Sachdeva, Ld. APP for the State.

Convicts Raman Kumar, Sukhdev Singh, Baljit Singh and  
Rakesh Kumar with Counsel, Sh. K.S. Sidhu, Adv.

Heard. Bonds as per section 437-A has already been  
furnished. The convicts have requested for suspension of sentence.  
They were already on bail till the last date of hearing and sentence  
awarded to them is less than 3 years. Moreover, the fine has already  
been paid by the accused, so their sentence of imprisonment is  
suspended for 30 days, subject to compliance of provision of 389(iii)  
of Cr.P.C.

**Sd/-**

**Pronounced in open Court on:  
16.10.2018**

**Ashish Dhawan  
Stenographer grade-II**

**(Rajiv Kumar Garg), PCS,  
Judicial Magistrate Ist Class,  
Jalalabad  
UID No.: PB-0476.**