

1
State Vs Goga Singh
C.I.S. No.CHA /79/2021

IN THE COURT OF SH. ANSHUMAN SIAG, PCS.,
JUDICIAL MAGISTRATE IST CLASS,MALOUT.

CIS No.79/2021
Date of institution:02.03.2021
CNR No. PBSGB1-000462-2021
Decided on: 03.05.2024

State
Versus
Goga Singh son of Gurjant Singh R/o Village Kattianwali, Tehsil Malout.

.....Accused.

FIR No. 249 dated 10.08.2020
U/S 61/1/14 Excise Act
Police Station: Lambi

Present:- Sh.Harjot Singh, APP for the State.
Accused on bail with counsel Sh. H.S.Kuraiawala, Adv.

JUDGMENT:-

1. Accused here-in-above has been sent by the SHO, Police Station, Lambi, to face trial, in case FIR No.249 dated 10.08.2020 under section 61/1/14 of Excise Act.
2. Brief facts of the prosecution story are that on 10.08.2020, police party headed by ASI Jagseer Singh along-with other police party were on private car and were present canal Bridge Village Killanwali to Mandi Killaywali on petrolling in regard with checking suspected person/vehicle. Then one car coming from the side of Mandi Killanwali. IO signaled the car and apprehended the person who is in the car. Then IO checked the back seat of the car and found chola plastic and found 11 bottles of liquor. IO separated one bottle of 750 ml as a sample nip. IO sealed both the parcels with his seal impression JS. IO filled form No M29 and prepared sample seal. Upon checking the car IO found RC no. DL-3CG-6849 which is in the name of Sanjeet Watts son of Sandeep Wattes. Then IO taken the case property in police possession. Then IO sent the ruqa for the registration of FIR. IO prepared rough site plan. Accused arrested ad personally searched by IO.
3. On completion of necessary formalities of the investigation, challan was presented against the accused and copies of the challan and other documents relied upon by the prosecution were supplied to the accused free of costs as stipulated under Section

(Anshuman Siag) JMIC, Malout.

207 Cr.P.C. Finding a prima facie case, charge was framed under section 61 (1) 14 of Excise Act, 1914. Charge was read over and explained to the accused in vernacular, to which the accused pleaded not guilty and claimed trial.

4. To bring home the guilt of the accused, prosecution examined Retired ASI Jagseer Singh as PW-1, SC Pawandeep Singh as PW-2, Jaswinder Singh as PW-3, Jarnial Singh as PW-4 and thereafter, closed the prosecution evidence by court order.

5. The incriminating evidence appearing against the accused was put across to him and his statement under Section 313 Cr.P.C was recorded, wherein he pleaded innocence and stated that false case has been foisted upon him by the police.

6. Ld.APP for the State submitted that testimony of Investigating Officer duly proved the guilt of the accused beyond any shadow of doubt and the accused deserves to be convicted and sentenced accordingly.

7. On the other hand, learned defence counsel submitted that no mad number of year 2022 on the case property and no independent witness was joined in the investigation by the police party even several people passes near by the police party until the police party remained at the spot. With this, ld defence counsel prayed that the accused is an innocent person and he has been falsely implicated in the instant case and deserves to be acquitted.

8. I have heard the rival contentions and have perused the record carefully. The point for determination in this case is as follow:

“Whether on 10.08.2020, in the area of village Killanwali, above named accused was found in possession of 11 bottles of country made liquor Malta Haryana without any permit or license? If so, its effect.”

9. PW-1 Retired ASI Jagseer singh proved from M 29 EX P1, possession memo EX P2, ruqa EX P3, FIR EX P4, Site plan EX P5, arrest EX P6, personal Search EX P7, chemical report EX PX, and case property MO1 and MO2. PW-2 SC Pawandeep Singh also proved the above said memos. PW-3 Jaswinder Singh prove original affidavit EX PA and Photocopy of the same EX PB. PW-4 Jarnial Singh also proved affidavit EX PB. In their cross-examination, they stood their ground firmly. The witnesses was cross

examined, but nothing came out which could be interpreted to favour the case of the accused.

10. Ld. defence counsel argued that no independent witness had been joined by the police party despite the place of recovery being a thoroughfare. With this, he reiterated that accused is innocent and has been falsely implicated by the police and he deserves to be acquitted.

11. Learned APP for the State submitted that there is no rule of law that uncorroborated testimony of official witnesses can not be accepted. He further argued that one credible witness outweighs testimony of number of the witnesses of any indifferent character.

12. I have considered the arguments advanced by the learned APP for the state as well as the learned counsel for the accused. The prosecution witness has deposed on oath and the testimony of prosecution witnesses is consistent and corroborates the prosecution story completely. The documents prepared during the course of investigation have also been duly proved on record. Unlike the contention of ld.defence counsel that the testimony of prosecution witness is discrepant interse the testimony of the prosecution witness finds full corroboration. By taking a bald plea in his statement recorded under section 313 Cr.P.C that he has been falsely implicated in this case, can not be attached any weight. No motive can be attributed to the prosecution witness for false implication of the accused and as such, testimony of the witness from the police team cannot be ignored. No enmity has been alleged or proved against the prosecution witness and the testimony of official witness inspires the confidence of the court.

13. In the light of the above discussion the prosecution case has been duly established and the charge against the accused stands proved beyond any reasonable doubt. Accused is, therefore, held guilty and convicted accordingly. Let, the convict be heard on the quantum of sentence.

Pronounced.

Dated: 03.05.2024
Gurvinder Kaur
Stenographer-II

(Anshuman Siag),
Judicial Magistrate Ist Class,
Malout .UID-PB0661

Quantum of Sentence:

Present: Shri Harjot Singh, APP for State.
Convict Goga Singh in custody.

14. Heard on the quantum of sentence. The convict has submitted that he is from a humble background and his future prospects of a good life would be ruined if he is sentenced to undergo imprisonment. He prayed for leniency and to be released on probation.

15. Keeping in view the age and antecedents of the convict and nature of the offence, I am of the view that justice would be met if he is released on probation. Accordingly, the convict is ordered to be released on probation on furnishing personal probation bonds in the sum of Rs. 10,000/- for a period of six months with the direction to keep peace during this period of six months and to appear in the court as and when called to receive the sentence and is further ordered to pay Rs.300/- (Rupees three hundred only) as cost of litigation. Cost paid. Case property is ordered to be confiscated to State, to be disposed of after the expiry of period of appeal or revision or subject to result of appeal/revision, if any. File be consigned to the record room.

Pronounced.

Dated: 03.05.2024
Gurvinder Kaur
Stenographer-II

(Anshuman Siag),
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