

CNR. No. PBSAA10017342023

CNR. No. PBSAA10022212023

CHA/80/2023

**In the Court of Ms. Sudipa Kaur,
Judicial Magistrate Ist Class, Kharar**

Filing No. CHA/2220/2023

Date of Presentation of Challan: 29.07.2023

CNR No. PBSAA10022212023

Decided on : 02.11.2023

State

Versus

Navtej Singh @ Teji son of Jaswinder Singh, resident of village Kubaheri, PS
Majri, District SAS Nagar, Mohali.

.....Accused.

FIR No.73 dated 20.11.2022

U/S: 61-1-14 of Excise Act & 181,
192 of Motor Vehicle Act.

P.S. Sadar Kurali.

Present:

Sh. Gurjinder Singh Ld. APP for the State

Accused Navtej Singh @ Teji on bail with counsel Sh.
H.C. Rathore Advocate.

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JUDGMENT:-

Vide report under Section 173 Criminal Procedure Code, 1973 (hereinafter referred to as the Cr.PC), accused Navtej Singh @ Teji has been sent up by Officer-in-Charge of Police Station, Sadar Kurali for alleged commission of offence under Section 61-1-14 of Excise Act & 181, 192 of Motor Vehicle Act (hereinafter referred to as the Act).

2. The prosecution version is that on 20.11.2022, ASI Tilak Raj alongwith police party on private vehicle alongwith laptop, printer, investigation kit and Excise Inspector Surjit Singh, Halqa Kurali in connection with patrolling and checking of suspected persons and vehicles were present at Durana Bridge at about 12.10 PM, when one person came from Kurali side on motorcycle bearing No.PB12-N-5084 Hero Honda color red/black having pithu bag black color on his back and on seeing the police he turned back to move towards village Dursana. Finding him suspicious, he was apprehended with the help of police officials. On asking, he told his name as Navtej Singh s/o Jaswinder Singh R/o Billage Kubaheri PS Majri and searched his bag. From the pithu bag 36 bottles of liquor make JOLT XXX Rum for sale in Chandigarh were recovered each bottle containing 750ml liquor. He did not have any license/permit for carrying it. ASI Tilak Raj arranged plastic can and other material at the spot. 36 bottles of JOLT XXX Rum poured in separate can and one samples of 180ml from plastic cann was taken out and affixed his seal bearing impression "TS" on a recovered liquor

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in a plastic can and sample 180 ml. All Empty bottles were put into one plastic sack and prepared the parcel of the same and affix his seal bearing impression "TS". Sample seal & Form 29-M were prepared separately. Offence under Section 61-1-14 of Excise Act was made out and Ruqa was sent to the police station for the registration of the FIR against Navtej Singh. Motorcycle bearing No.PB12-N-5084 without documents and recovered liquor were taken into police possession, rough site plan were prepared at the spot. After investigation accused was arrested u/s61-1-14 Ex Act in the present case and his personal search conducted memos prepared, statements of witnesses recorded under Section 161 Cr. PC. On return to the police Station, the case property was deposited with MHC PS Sadar Kurali. During investigation the vehicle was found registered in the name of Kirpal Singh s/o Karora Singh r/o Bindrakh PS Singh Bhagwantpura Ropar who had died since 19.05.2019 and his maternal nephew Jagdish Singh s/o Manjit Singh r/o Jhampur PS Badali AlaSingh, Distt. Fatehgarh Sahib presently residing at Bindrakh PS Sadar Roopnagar PP Parkhali Distt. Roopnagar was using it who was joined in investigation and in his statement was got recorded that the motorcycle was taken from him by his friend Gurpreet Singh @ Preet R/o Kubaheri, PS Majri Distt. SAS Nagar stating that he had to go in his relation and he would return the motorcycle in 4-5 days. He was also joined in investigation and in his statement he stated on 20.22.2022 his friend, accused Navttej Singh @ Teji s/o Jaswinder Singh had taken the said motorcycle from

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him on the pretext that he had to take his wife for taking medicine and he told his friend that the motorcycle did not belong to him and he had to return the same on the same day but later on it came to his notice that the motorcycle was used for carrying 3 boxes of illegal liquor by Navtej Singh about which only Navtoj knows and he was responsible for that. Navtaj did not produce DL and RC of the motorcycle for which section 181, 192 Motor Vehicle Act were added later on. Sample taken out of the recovered bottles were sent to Laboratory for chemical analysis and the report received stated that the samples resemble rum. On completion of investigation, report under Section 173 Cr.P.C. was prepared and presented against accused before the court.

3. On receipt of the challan, the requisite copies of the challan and other documents attached with it were supplied to accused free of cost in compliance with the provisions of Section 207 Cr.P.C.

4. After going through the case file and hearing the submission of both the sides, a prima facie case punishable under Section 61-1-14 of the Act and Section 181 & 192 of Motor Vehicle Act were made out against the accused and accordingly accused was charge-sheeted vide charge sheet dated 29.07.2023 under the above said Section. Charge was read over and explained to the accused in vernacular to which he understand and pleaded not guilty and claimed to face trial.

5. The prosecution in order to prove its case against the accused, examined PW1 ASI Tilak Raj No. 1149/SAS Nagar, Investigating

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Officer of the present case, who has fully supported the case of the prosecution and he has proved on record documents i.e. Sample seal as Ex.P1, recovery memo as Ex.P2 vide which recovered liquor in a plastic can, sample measuring 180 Ml and 36 empty bottles in a bag, Ruqa as Ex.P3, FIR as Ex.P4, Recovery memo of Motorcycle bearing no.PB12-N-5084 as Ex.P5, Rough site plan as Ex.P6, arrest memo of accused Ex.P7, his personal search memo as Ex.P8, report of Chemical Examiner as Ex.P9. He also proved the case property i.e. recovery Motorcycle bearing no.PB12-N-5084 as Ex.MO1, recovered liquor in plastic can as Ex.MO2, empty bottles in a plastic sack as Ex.MO3.

6. No other witness was examined by prosecution and thereafter evidence of prosecution was closed by Court.

7. On closure of prosecution evidence, the accused was examined under Section 313 Cr.P.C wherein all the incriminating evidence appearing against him was put to him, to which he denied all the allegations leveled against him by prosecution and pleaded himself to be innocent and claimed that he has been falsely implicated in this case. However, accused opted not to lead defence evidence.

8. I have heard the respective submissions raised by Ld. APP for the State and defence counsel.

9. During the course of arguments Ld. APP for the State submitted that the prosecution has fully proved its case against the accused by

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leading cogent and convincing evidence. Therefore, accused be convicted and sentenced as per law.

10. On the other hand, Ld. Defence counsel vehemently contended that prosecution has failed to prove this case beyond any shadow of reasonable doubt. Ld. Defence counsel submitted that during investigation and on the arrest of accused no independent witness was joined. Therefore, accused, must be given benefit of doubt and be acquitted in this case.

11. After hearing the submissions of the Ld. APP for the state and defence counsel, I am of the considered view that the arguments advanced by Ld. Defence counsel have no weightage and substance. As regards the recovery of liquor from the possession of the accused is concerned, although the accused in his statement under Section 313 Cr.P.C and even during the course of arguments has tried to convince this court that a false case of recovery has been foisted upon him and that no recovery has been effected from him. This contention of the accused appears to be an after thought. Perusal of the statement of ASI Tilak Raj PW1, Investigating Officer shows that this prosecution witness in his consistent and corroborative statement has made specific accusations against the accused with regard to his apprehension regarding recovery of liquor from his possession.

12. Nothing contrary has been adduced in the cross-examination of the Investigating Officer to elicit that he had falsely implicated the accused or that there was any kind of enmity of police with the

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accused. Also, though it has been admitted by the Investigating Officer that has not joined any independent witness qua the recovery, however, this Court of the view that requirement of joining independent witness was not necessary as evidence of police officials cannot be discarded on only the ground that they are police officials and interested in the success of the case. The same has been held in case titled as **State of Punjab V. Bhadar Sain, 1979 CrL. Lj.1 Punjab & Haryana High Court (DB)**. Even otherwise, as per the evidence, the recovery of liquor from the accused was chance recovery.

13. The next argument advanced by the Ld. Defence counsel is that no independent witness has been joined by the police party despite the fact that there was ample availability of independent witnesses at the place of recovery. He further contended that as a mandatory provisions of Section 100(4) of Cr.P.C has been violated and as such entire trial is vitiated. However, this court does not find any merit in the arguments advanced by the defence counsel for the reasons to be recorded hereinafter. No doubt the investigating officer failed to join two inhabitants from the locality as required under the provisions of Section 100(4) Cr.P.C. However, non-compliance of Section 100(4) Cr.P.C. does not vitiate the trial. Moreover, illiterate and rustic villagers normally feel reluctant and shy and remains away from joining as independent witness and does not depose against fellow persons and for this reason the prosecution case cannot be declared false, simply due to the reason that no independent corroboration is available. There

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is no rule of law that the accused cannot be convicted on the statement of official witnesses without independent corroboration when the evidence of official witness is cogent, convincing and reliable.

14. Learned defence counsel further argued that the accused has been falsely implicated in the present case, but this court does not find any force in the arguments advanced by the Ld. defence counsel, because accused has not led any evidence in his defence whereby he has been able to prove on judicial record of any ill-will, ulterior motive, malafide or enmity with the police officials, who could have led to his false implication in the present case. Mere allegation of false implication does not release the accused of the burden of proving the same especially in the light of duly corroborated and substantiated evidence put forth by the prosecution. In this manner, this court finds that there is no merit in the arguments advanced by the Ld. defence counsel.

15. After the valuation of the arguments and the evidence in my considered opinion prosecution has been able to prove its case against the accused beyond any doubt and from the consistent statements of prosecution witness it stand duly proved on record that the accused was found to be in possession of 36 bottles of liquor. This being so, there remains nothing for prosecution to prove much against the accused to bring home the guilt of the accused and the evidence available on the record is sufficient to conclude that the charge against the accused stands duly proved beyond even a shadow of

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doubt.

16. In view of above discussion, prosecution has been able to prove its case against accused beyond the scope of reasonable doubt. Accordingly, accused Navtej Singh Teji is held guilty under Section 61-1-14 of Act & 181, 192 of Motor Vehicle Act and is convicted accordingly. Let, the convict be taken into custody and be heard on the quantum of sentence.

Pronounced in open Court.
Dt. 02.11.2023

(Sudipa Kaur)
Judicial Magistrate Ist Class
Kharar / (UID : PB – 0556)

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ORDER ON QUANTUM OF SENTENCE:-

Present: Ld. APP for the State
Convict Navtej Singh Teji in custody, with counsel
Sh. H.C. Rathore Advocate

17. I have heard the convict with Ld. Defence Counsel and APP for the state. The convict has taken the plea that he is innocent person and falsely implicated in the present case. He further stated that he is the only bread winner of his family and requested that lenient view be taken against him. On the other hand, Ld. APP for the State submitted that accused be punished as per law and no leniency should be granted in his favour. After giving thoughtful consideration to the plea of the convict on quantum of sentence and after having regard to the personal antecedents of the convict and at the same time, the prosecution has also failed to prove on record the previous conviction of the convict and, therefore, this court is of the considered view that instead of sentencing the accused for imprisonment which may make adverse effect upon the psychology of the convict and he will become more hardened criminal by interacting with heinous offenders. Therefore, this court further is of the considered view that the convict should be extended the concession of probation. Accordingly, the convict is ordered to be released on probation on his furnishing probation bonds in the sum of Rs.10,000/- valid for six month, with further direction that the convict shall be bound to maintain peace and harmony during the said period of six months

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and if he breaches the peace and harmony or violates the conditions of the personal bond during the said period, then he shall be bound to appear or may be produced in the court for the purpose of receiving sentence the maximum which is provided under the law. The accused is also burdened with Rs.500/- as cost of litigation, fine of Rs.500/- under Section 181 of Motor Vehicle Act & fine of Rs.500/- under Section 192 of Motor Vehicle Act and in default of payment of fine shall undergo SI for 15 Days. Fine and Litigation cost has been paid. The case property be destroyed after the expiry of appeal or revision as the case may be. Bail bonds and surety bonds stand discharged. File be consigned to record room after the necessary compliance.

Pronounced in open Court.
Dt. 02.11.2023

(Sudipa Kaur)
Judicial Magistrate Ist Class
Kharar / (UID : PB-0556)

Note: This Judgment of mine comprises of total 11 pages and all the pages have been checked and signed by me.

Pronounced in open Court.
Dt. 02.11.2023

(Sudhir)
Stenographer Gr-II

(Sudipa Kaur)
Judicial Magistrate Ist Class
Kharar / (UID : PB – 0556)
(Direct Dictated)

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Present: Sh. Gurjinder Singh Ld. APP for the State
Accused Navtej Singh eji on bail with counsel Sh. H.C.
Rathore Advocate.

PW-1 ASI Tilak Raj is present and examined completely.

No other PW present. As such, evidence of prosecution is closed. Statement of accused under Section 313 Cr.P.C. recorded. Accused opted not to lead defence evidence. Separate statement of accused has also been recorded.

Arguments heard. Vide my separate detailed judgment of even date, accused Navtej Singh @ Teji is convicted and is released on probation, as stated therein. Probation bonds furnished which are accepted and attested. Fine and Litigation cost has been paid. Case property be disposed of after the expiry of period of appeal or revision, if any. File be consigned to the record room.

Pronounced in open Court.

Dt. 02.11.2023

(Sudhir)
Stenographer Gr-II

(Sudipa Kaur)

Judicial Magistrate Ist Class

Kharar/(UID: PB-0556)

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