

IN THE COURT OF SH. RUPINDER SINGH, PCS, ADDITIONAL
CHIEF JUDICIAL MAGISTRATE, HOSHIARPUR. (UID No.PB-0273).

CNR No.PBHO03001130-2020

CIS CHA No. 87 of 2020

Date of institution: 15.06.2020

Date of Decision: 27.05.2022

State Versus Paramjit Singh @ Babu aged 41 years son of
Gurmit Singh resident of Ward no.6, Sham
Chaurasi, PS Bullowal, Distt. Hoshiarpur.

...Accused.

FIR no. 88 dated 18.06.2019

Under Section: 61/1/14 Excise Act.

P.S. Bullowal, Hoshiarpur.

Present: Sh. Rahul Dadwal, APP for State.
Accused on bail with counsel

JUDGMENT

1. Above named accused has been sent by the Officer Incharge Police Station Bullowal, Hoshiarpur, for trial of offence under Section 61/1/14 of Punjab Excise Act.

2. The brief facts of the case of the prosecution are that 18.06.2019, ASI Satwinder Singh alongwith Excise Inspector Mohinder Singh and other police officials were on special Nakabandi duty and was present at Tahli Morh. Sham Chaurasi where as secret information was received that ParamjitSinghj @ Babu son of Gurmit Singh resident of Sham Chaurasi is in the habit of bringing liquor from outside the state and selling the same at lower price. If the raid is conducted at his house, he can be apprehended alongwith liquor. Believing the information to be trustworthy, ruqa was sent to the police station for registration of the case and the

present case was registered. Thereafter ASI Satwinder Singh alongwith other police officials reached at the disclosed place and found that the accused was present in his house. Search of the accused was conducted, which led to the recover of one plastic bag, which was kept concealed by the accused in the heap of gravel inside his house. Search of the plastic bag was conducted, which led to the recovery of 18 bottles of liquor in sealed condition, each bottle measuring 750 Mls. The labels of the bottles had been removed, but one marking of Rock and Storm bottle Private Ltd. Chandigarh was found written on the bottles. Thereafter, arrangements were made to measure the contents of the bottles and one tub, plastic can, one empty quarter, funnel were arranged. Thereafter, seals of all the bottles were broken and the contents of the all the bottles were poured in the tub and after mixing it well and making it a homogeneous mixture one specimen sample of 180 ml was taken out and rest of the contents were put inside the plastic can which measured out to be 13320 ml. The plastic can and specimen sample were sealed by ASI Satwinder Singh with his seal impression "SS" and were taken into police possession. The empty bottles were also taken into police possession. ASI Satwinder Singh prepared site plan and recorded the statements of witnesses on the spot. Accused was arrested. On return to police Station ASI Satwinder Singh go to deposit the above said case property with MHC and recorded his statement. On receipt of chemical examiner report and after completion of investigation, the challan was got prepared and presented in the court.

3. On appearance of the accused before the court, copies of documents as relied upon by the prosecution along with report under Section 173 Cr.P.C were supplied to the accused free of costs as required under Section 207 Cr.P.C.

4. Finding a prima facie case, charge under Section 61-1-14 of Punjab Excise Act was framed against the accused, the contents of charge were read over and explained to him. Accused pleaded not guilty and claimed trial.

5. In order to prove its case, prosecution examined ASI Raghbir Singh as PW1, SI Satwinder Singh as PW2 and thereafter accused suffered statement that he does not dispute and not objected to the link evidence of the prosecution and does not want to cross examine remaining prosecution witnesses, if examined. In view of statement of accused the learned APP closed the evidence of the prosecution after tendering affidavit of MHC Ex.PY.

6. On closure of prosecution evidence, statement of accused was recorded under Section 313 Cr.P.C wherein evidence appearing against the accused was put across to him. Accused pleaded innocence and false implication. On being afforded opportunity to lead evidence in his defence, accused did not examine any witness.

7. I have heard the rival contentions of learned APP for the State, learned defence counsel and perused the record carefully. The point of determination in this case is :

Whether on 18.06.2019 at about 8:00 pm in the area of Sham Chaurasi, accused was found in conscious possession of 18 bottles of liquor, each bottle measuring 750 Mls., marked as Rock and Storm bottlers private Ltd. Chandigarh Excise without any license or permit? If so its effect.

8. The learned APP for the State has contended that from the oral as well as documentary evidence led by the prosecution, it has been fully established that on 18.06.2019 at about 8:00 pm in the area of Sham Chaurasi, accused was found in conscious possession of 18 bottles of liquor, each bottle measuring 750 Mls., marked

as Rock and Storm bottlers private Ltd. Chandigarh Excise without any license or permit. As such accused be convicted and sentenced as per law.

9. On the other hand, learned defence counsel has argued that entire story of the prosecution hinges on the sole testimony of PW2, who is the Investigating Officer of this case and the PW1 is the formal witness. There is no corroboration to the statement made by PW2. He has further argued that no independent witness has been joined at the time of apprehension of the accused and thus the story of the prosecution is doubtful.

10. I have carefully considered the submissions made before me. It is well settled that conviction can be made on the sole testimony of single witness. The deposition of single witness being the official witness cannot be discarded merely on the ground that he is an official witness. In such like situation, it becomes the duty of the court to examine the testimony of such witness with more care and caution. The court has to see the quality of evidence and not the quantity. SI Satwinder Singh, Investigating Officer, while standing in the witness box as PW2 has deposed that on 18.06.2019, he alongwith Excise Inspector Mahinder Singh, HC Narvail Singh, HC Balwinder singh and HC Davinder Singh were on special nakabandi duty and was present at a Tali Morh, Shamchurasi. A secret information was received from the informer that accused Pararmjit Singh @ Babu son of Gurmit Singh resident of Shamchurasi who is in habit of bringing liquor from outside the state and selling the same at lower price. The informer further told that the accused has stocked liquor in his house and he can be apprehended if raid is conducted now. Since the information being reliable, he scribed ruqa Ex P1 and sent through PHG Davinder Singh for

registration of FIR on the basis of which FIR Ex. P2 was registered and the endorsement over the ruqa is Ex.P3. Thereafter he started the investigation and went to place as disclosed by informer alongwith police party. When police party arrived at the place as disclosed by informer, accused Paramjit Singh was found present in his house. Before making search of house efforts were made to join independent witness but everyone showed their inability to join. Upon which, he alongwith police party conducted the search of the house and one heavy plastic sack was found concealed in the heap of gravel inside the house of the accused. Thereafter, the plastic sack was searched and it was found to contain 18 bottles of liquor in a sealed condition each bottle measuring 750 ml. The labels of the bottles had been removed, however, one marking of Rock and Storm bottle private Ltd, Chandigarh was found written on the bottles. He further stated that thereafter arrangements were made to measure the contents of recovered liquor and plastic cans, funnel and empty quarter was arranged. Seals of all the 18 bottles were broken and the contents were poured into the tub, after mixing it well and making a homogeneous mixture a specimen sample of 180 ml was taken out and sealed with my seal impression "SS", the rest of the liquor measuring 13320 ml was poured into plastic can which was sealed with his seal impression "SS". The 18 empty bottles were also sealed in the plastic sack. Thereafter the specimen sample, plastic can and plastic sack containing 18 empty bottles were taken into police possession vide recovery memo Ex. P4. He further stated that after taking into possession the liquor, other formalities were carried out at the spot i.e. form M-29 was prepared, and after using the seal, seal was handed over to HC Balwinder Singh. Thereafter, he prepared site plan Ex P5 and formally arrested

the accused vide arrest cum intimation memo Ex. P6 and his search memo is Ex. P7. The form M-29 Ex P8 prepared at the spot over. During the investigation, the specimen sample was sent to the office of Chemical Examiner Kharar and the report of Chemical examiner in this regard is Ex. P9. He proved the case property Ex.MO1 and Ex.MO2 and identified the accused present in the court. PW1 ASI Raghbir Singh deposited the sample of 180 Ml. Liquor in the office of Chemical Examiner and handed over the receipt to the MHC on the same day i.e. 4.7.2019.

11. It is pertinent to note here that Both these witnesses were not cross examined by the defence counsel, though opportunity was duly granted. It is well settled that if the witness is not cross examined, it means that the facts as stated in examination in chief have been admitted to be correct. Thus, the testimony of PW1 forms valid ground for the purpose of conviction of the accused.

12. No other point has been argued by the learned defence counsel. Even otherwise the case of the prosecution stands proved on record with the help of a cogent and convincing testimonies of the PWs examined in this case by the prosecution. It is also worth-mentioning that the accused has not led any evidence in defence to prove any enmity on the part of the police officials, which might have prompted them to falsely implicate him in this case.

13. In view of the evidence led by the prosecution and above discussion, I am of the considered opinion that the prosecution has proved the guilt of the accused beyond the shadow of doubt and accused Paramjit Singh is accordingly convicted under section 61-1-14 of Punjab Excise Act. Let, the convict be taken into custody and heard on the quantum of sentence.

Pronounced in open court:
Dated: 27.05.2022

(Rupinder Singh),
Addl.Chief Judicial Magistrate,
Hoshiarpur.
(UID No.PB-0273).

Quantum of sentence:

Present: Sh. Rahul Dadwal, Addl.PP for the State.
Convict in person with counsel.

14. I have heard the convict, his counsel as well as learned APP for the State on quantum of sentence. The convict has prayed that his whole family dependents upon him as he is the sole bread winner of his family. He prayed for leniency. Keeping in view the nature of offence, I am of the considered opinion that justice would be met if accused is released on probation. I ordered accordingly. The convict is ordered to be released on probation on furnishing personal probation bonds in the sum of Rs.50,000/- for a period of one year and directed to keep peace during this period and to appear in the Court as and when called to receive the sentence. He is also burdened with Rs.1500/- as costs of litigation. Case property is ordered to be confiscated to the State to be destroyed under rules after expiry of period of appeal or revision or subject to result of appeal or revision if any. File complete in all respects be consigned to the record room, Hoshiarpur, after due completion.

Pronounced in open court:
Dated: 27.05.2022

(Rupinder Singh),
Addl.Chief Judicial Magistrate,
Hoshiarpur.
(UID No.PB-0273).

Anil Kumar, J.W

Direct dictation

