

IN THE COURT OF TEJINDER PREET KAUR, PCS,
JUDICIAL MAGISTRATE 1st Class, JAGRAON.
UID No. PB0408

Case No	84
CIS No.	CHA-84-2022
Date of Institution	31.05.2022
Date of decision	12.02.2024
CNR No.	PBLDB1-002580-2022

State Versus Jasvir Singh @ Beera son of Arjan Singh, resident
of village Bitala, Police Station Mehatpur, District
Jalandhar.

.....Accused

FIR No. 210 Dated 25.12.2021
Under section 61-1-14 of Excise Act.
Police Station Sidhwan Bet.

Present: Shri Ravinder Singh, Ld. APP for the State.
Accused Jasvir Singh @ Beera on bail represented by
counsel Ms. Sarita Rani Advocate.

JUDGMENT

1. The above named accused has been sent up to face trial for an offence punishable under section 61-1-14 of Excise Act by SHO, P.S. Sidhwan Bet.
2. Succinctly, story of the prosecution in brief is that present FIR No. 210 dated 25.12.2021 was registered under Excise Act at P.S Sidhwan Bet against accused person namely Jasvir Singh @ Beera on the allegations that on dated 25.12.2021 in the area of Police Station Sidhwan Bet, present accused was found in possession of cane plastic containing 40 bottles of illicit liquor measuring 750 ML each without any permit or license. Accordingly, investigation

was initiated. Recovered liquor was taken into police possession. Rough site plan of spot of recovery was prepared. Sample was drawn. Accused was arrested. After completion of investigation, final report against the accused was prepared and presented in the court for further proceedings.

3. Upon appearance of accused, copies of final report and other documents annexed therewith, were supplied to him, free of costs U/S 207 Cr.P.C.
4. From a careful consideration of the facts mentioned in final report and evidence gathered during the investigation, charge was framed against accused, which was read over and explained to accused in simple Punjabi language and accused pleaded not guilty to the charges and claimed trial. Then, matter was fixed for prosecution evidence.
5. In order to substantiate the allegations levelled against accused, prosecution examined PW-1 ASI Jaswant Singh, who joined the police party headed by ASI Major Singh and he deposed as per the story of the prosecution, which needs no repetition here. Besides this, he proved on record ruqa as Ex.P1, recovery memo as Ex.P2, arrest memo of accused as Ex.P3, personal search memo of accused as Ex.P4, rough site plan as Ex.P5 and report of FSL as Ex.P6. PW-1 was not cross-examined and opportunity given to cross-examine him was marked as nil. No other witness was examined by prosecution and thereafter, Ld. APP for the State closed prosecution

evidence vide separate statement.

6. On closure of prosecution evidence, entire incriminating evidence appearing against the accused was put to him and his statement was recorded under section 313 Cr.P.C, wherein he denied veracity of evidence of prosecution and stated that he has been falsely implicated in present case and was innocent. Accused did not desire to lead evidence in defence.
7. I have heard the rival contentions of learned APP for the state and learned counsel for the accused and gone through case file carefully and perused the documents attached on the file.
8. Learned APP for State has argued that accused is liable to be convicted for the offence charged with in view of the prosecution evidence on record.
9. On the other hand, learned counsel for the accused has contended that accused has been falsely implicated in the present matter and alleged recovery of illicit liquor has been planted upon him and prays for acquittal of the accused.
10. A careful consideration of rival contentions of learned counsel for the accused and learned APP for the state, in the light of facts and circumstances of the matter, requires it to be stated that PW-1 ASI Jaswant Singh has supported the version of prosecution as regards recovery of illicit liquor effected from the accused and proved on record memo of recovery Ex.P2. PW-1 was not cross-examined and opportunity given to cross-examine him was marked as nil. On

the other hand, accused has not brought on record any evidence to prove his false implication and plantation of alleged recovery of 40 bottles of illicit liquor upon him by the police.

11. Although, the accused has denied the prosecution story, yet it is to be observed that PW-1 ASI Jaswant Singh was not cross-examined and opportunity given to cross-examine him was marked as nil. Simple denial by the accused does not carry any weight. No motive can be attributed to the witnesses of the prosecution for false implication of the accused and as such, testimony of PW-1 can not be ignored. No doubt, it is desirable to join an independent witness at the time of recovery but non-joining of independent witness at the time of recovery does not amount to vitiating the trial because there is no rule of law that the accused cannot be convicted on the statement of official witness without independent corroboration. Moreover, illiterate and rustic villagers normally feel reluctant and shy and try to remain away from joining as independent witness and do not depose against fellow persons but on this score testimony of official witnesses can not be disbelieved, particularly when no enmity has been alleged or proved against the prosecution witness. In case titled as **Punjab and Haryana High Court, Chd. vs. Om Parkash Chaudhary 2006(2) RCR Criminal Page 426**, our Hon'ble High Court held that testimony of police personnel should be treated in the same manner as testimony of other witness and there is no principle of law that without corroboration by

independent witness testimony of police personnel cannot be relied upon. Moreover, if the testimony of official witnesses inspires confidence, accused can be convicted on its basis.

12. In view of above discussion, this court is of the view that prosecution has successfully proved its case beyond the shadow of reasonable doubt under section 61 of Punjab Excise Act. Hence, accused Jasvir Singh @ Beera is held guilty under Section 61 of the Punjab Excise Act. and is convicted thereunder accordingly. Let, he be heard on question of sentence.

Pronounced.
Dated:-12.02.2024
Manoj Kumar Stenographer-II

(Tejinder Preet Kaur),
Judicial Magistrate Ist Class,
Jagraon (UID No. PB0408

Question of Sentence

*Present: Sh. Ravinder Singh, APP for the State
Convict Jasvir Singh @ Beera in custody represented by
counsel Ms. Sarita Rani Advocate.*

Heard on the quantum of sentence. Learned Counsel for the convict pleaded that accused is a poor person and is the only bread winner of his family and is the first offender and as such, benefit of probation be bestowed upon him. Keeping in view the antecedents of the convict and nature of the case, I have come to the conclusion that ends of justice shall be fully met, if convict is afforded an opportunity to come to the path of rectitude. As such, the convict is ordered to be released on probation under section 4 (1) of Probation of Offenders Act, on furnishing of personal probation bonds in the sum of ₹ 50,000/-, undertaking therein not to repeat the offence, be of a good behavior and to appear, receive the sentence as and when called upon by the Court to do so, for a period of one year and cost of litigation of ₹ 4000/-. Cost of litigation paid. Case property 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:-12.02.2024
Manoj Kumar Stenographer-II

(Tejinder Preet Kaur),
Judicial Magistrate Ist Class,
Jagraon (UID No. PB0408)

Present: Shri Ravinder Singh, Ld. APP for the State.
 Accused Jasvir Singh @ Beera on bail represented by
 counsel Ms. Sarita Rani Advocate.

No PW is present. However, Ld. APP for the State closed prosecution evidence. Statement of accused U/S 313 Cr.P.C recorded.

Arguments heard. Vide my separate detailed judgment of even date, accused present in the court is held guilty and released on probation for a period of one year on furnishing personal probationary bonds in the sum of Rs.50,000/-, which have been furnished, accepted and attested. Rs.4000/- has been imposed as cost of litigation, which has also been paid. Case property be disposed of after the expiry of period of appeal or revision or subject to result of appeal/revision, if any. Accused be released from custody, if he is not required in any other case. File be consigned to the record room.

Pronounced.
Dated:-12.02.2024
Manoj Kumar Stenographer-II

(Tejinder Preet Kaur),
Judicial Magistrate Ist Class,
Jagraon (UID No. PB0408)