

State vs. Sukhdev Singh
**IN THE COURT OF MS. KHUSHDEEP KAUR, PCS JUDICIAL
MAGISTRATE FIRST CLASS NAKODAR (UID No. PB0652)**

CIS Case No. CHA/89/2019

CNR No. PBJLA10010036-2019

Date of Institution 29.07.2019

Date of Order 08.09.2022

State

V/s

Sukhdev Singh S/o Surjit Singh R/o village Sandha, Police Station Shahkot,
Jalandhar.

FIR No. 205 dated 04.11.2018

Under Sections 61-1-14 of Excise Act

PS: Shahkot

Present: Ms Nirlep Kaur, APP for the State.
Accused Sukhdev Singh on bail represented by Sh. B.S. Dhadha,
Advocate.

JUDGMENT:

1. The above-named accused have been sent up by the Station House Officer of Police Station Shahkot to face trial in FIR No. 205 dated 04.11.2018 for the offence punishable under Section 61-1-14 of Excise Act.

2. In brief, the case of the prosecution is that on 04.11.2018, HC Yadwinder Singh (hereinafter referred as Investigating Officer) in general duty along with other police officials was patrolling in search of bad elements and they were

State vs. Sukhdev Singh

present at Saidpur turn. On receiving secret information that the above named accused is standing at turn truck union Kotli Gajra carrying plastic canny containing illicit liquor and waiting for his customers and if raid be conducted immediately he can be apprehended. Finding the information to be concrete, I.O. sent ruqa to police station for registration of F.I.R. and raid was conducted and police party saw a cutsurd person sitting on the road with a plastic canny in his right hand who was apprehended with the help of police officials. The former was apprehended on the spot, on being asked about his name was identified as Sukhdev Singh s/o Surjit Singh r/o village Sandha PS: Shahkot. From the spot, the police party recovered plastic canny measuring 30 bottles of 750 ml each. Out of it one sample of 180 ml was taken and sealed by I.O. with seal impression 'Y.S'. Thereafter, the requirement of form 29-M was also completed. Accused was arrested and illicit liquor was taken in custody.

3. During investigation, site plan of place of recovery was prepared, statements of the witnesses were recorded and on return to police station the case property along-with sample parcel was deposited with MHC of the Police Station, in intact condition. Sample parcel was sent to the office of Assistant Chemical Examiner, Kharar, for analysis. Further investigation was ensued and on receipt of chemical analysis report the investigation was completed. On completion of the investigation, Challan was presented in the court against accused Sukhdev Singh u/s 61-1-14 Excise Act.

State vs. Sukhdev Singh

4. On appearance of accused in the Court, copies of all the documents sent along with the report and relied upon by the prosecution, were supplied to him as per mandatory requirement of Section 207 Cr.P.C. From the perusal of the documents and after hearing A.P.P for the State and the learned defence counsel, sufficient grounds were found for initiating trial against the present accused, namely, Sukhdev Singh for offence punishable under 61-1-14 Excise Act and the accused was charged accordingly to which he pleaded not guilty and claimed trial.

5. The prosecution examined HC Yadwinder Singh as PW-1, HC Manjeet Singh as PW-2, L/c Rajwant Kaur as PW-3 and ASI Satnam Singh as PW-4. Thereafter the prosecution evidence was closed on account of examination of all the material witnesses.

6. Thereafter, statements of the accused persons were recorded in terms of Section 313 CrPC without oath, so as to apprise him of the incriminating circumstances appearing against him in evidence led by the prosecution, to which he reiterated his innocence and claimed false implication.

7. I have heard learned A.P.P for the State, learned defence counsel for the accused and have carefully gone through the records of the case.

8. In order to bring home the guilt of the accused, prosecution has examined PW- 1 HC Yadwinder Singh who has deposed in line with the prosecution case and proved on file material documents i.e. Ruqa Ex.PW1/A, FIR Ex.PW1/B, Form no.29 Ex.PW1/C, Recovery memo Ex.PW1/D, Site plan

State vs. Sukhdev Singh

Ex.PW1/E, Arrest cum intimation memo Ex.PW2/F, Personal search memo Ex.PW1/G, Chemical report Ex.P1 and case property Ex.MO. He was cross-examined at length by the Ld. Counsel for accused. His cross examination was mainly suggestive and nothing material was elucidated from his cross examination.

9. PW-2 HC Manjit Singh who was a member of the checking and patrolling party also deposed on the line of prosecution. He stated that the seal used on case property with seal impression 'YS' was handed over to him. He further identified the accused in the Court. Nothing material has come up in his cross examination.

10. PW-3 L/ct Rajwant Kaur who deposed that she was posted at PS; Shahkot. On. 15.11.2018 MHC Satnam handed over one sample parcel 180 ml illicit liquor bearing seal impression YS for depositing the same for chemical examination office at kharar. She deposed that she has deposited the said parcel in the above said office and handed over the receipt to the MHC after returning to police station. Nothing material was elucidated from his cross examination.

11. PW-4 ASI Satnam Singh who was posted as MHC PS Shahkot and deposed that he had deposited the case property duly sealed with impression YS in the malkhana of police station. Entry in this regard was made in registered no. 19. He further deposed that on 15.11.2018 he handed over the sample parcel with impression YS alongwith form no.29 to constable Rajwant Kaur for depositing the same for chemical examination at kharar till the time sample parcel as well as bulk parcel

State vs. Sukhdev Singh

remained with him neither he nor anybody else tampered with the same. Nothing material was elucidated from his cross examination.

12. No doubt, it is desirable to join an independent witness at the time of recovery but at the same time testimony of the official witnesses cannot be disbelieved on the ground that no independent witness was joined, particularly when no enmity has been alleged or proved against the prosecution witnesses. Further, if the testimony of official witnesses inspires the confidence of the court, accused still can be convicted under the law. Testimony of Police personnel has to be treated in the same manner as testimony of any other witness and there is no principle of law that without corroboration by independent witness their testimony cannot be relied upon. The presumption that a person acts honestly applies as much in favour of a Police Personnel as of other persons and it is not proper judicial approach to distrust and suspect them without good grounds.

13. Learned counsel for the accused also assailed the prosecution story that no recovery was affected from the accused persons and they have been falsely implicated in the present case. But this court does not find any force in the arguments of learned defence counsel. The accused have not led any defence evidence nor they have been able to prove on judicial record any ill motive, mala fide or enmity with the police official which could have led to their 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

State vs. Sukhdev Singh

forth by the prosecution. In this manner, this court finds that there is no merit in the arguments of learned defence counsel.

14. No infirmity or discrepancy could be elicited from the testimony of prosecution witnesses by defence counsel. From the chemical analysis report, the contents sent to it have been proved to be that of illicit liquor.

15. Thus, from the evidence of prosecution, it stands duly proved that the accused were found in the possession of 30 bottles of 750 ml each containing illicit liquor. Therefore, in view of my foregoing discussion, I hold the accused guilty of having committed an offence punishable under section 61-1-14 of the Punjab Excise Act. Let, he be heard on the quantum of sentence post lunch.

Pronounced in open Court.

Date of Order: 08.09.2022
Ritika Dureja

(Khushdeep Kaur)PCS
Judicial Magistrate First Class
UID NO . PB0652

State vs. Sukhdev Singh

QUANTUM OF SENTENCE

Present: Sh.Nirlep Kaur, Ld. APP for the State,
Convict Sukhdev Singh with counsel.

I have heard the APP for the State as well as convicts on the point of quantum of sentence. The convicts have prayed for taking lenient view as he have submitted that he is the only bread-winner of his family and all the family members including his minor children are dependent on his earnings. That he is poor and illiterate person. He further submitted that lenient view be taken as if he is imprisoned, it would lead to starvation of their families. He further undertook that he will not commit any offence in the future. The convict has been heard on the question of sentence and all the attending circumstances have also been taken into consideration. The convict has requested for taking a lenient view in the matter of sentence, with the submissions that he is the only bread-winner of his family and had been facing trial since long. That he is poor and illiterate. After taking into consideration the quantity recovered, the age, character & other antecedents of the convicts as well as nature and gravity of the offence for which he has been convicted and the fact the accused is first time offender, this court finds it a fit case to grant the benefit of probation. As such, the accused is ordered to be released on probation on furnishing probation bonds in the sum of Rs. 40,000/- for a period of one year and to maintain good behaviour. During this period, he is directed to be of good behaviour. He is directed to come present and receive sentence, as and when called by the Court. Prosecution charges to

State vs. Sukhdev Singh

the tune of Rs. 1000/- are imposed. Probation bonds furnished and prosecution charges paid. Surety bonds, if any, be discharged. Case property be disposed of as per rules, after the expiry of period of filing an appeal or revision, if any. File be consigned to record room.

Pronounced in open Court

Date of Order: 08.09.2022
Ritika Dureja

(Khushdeep Kaur)PCS
Judicial Magistrate First Class
UID NO . PB0652