

UID No.PB0248

**IN THE COURT OF MRS. AMANDEEP KAUR CHAHAL, PCS,
CHIEF JUDICIAL MAGISTRATE,
MOGA.**

Date of presentation:-08.03.2021
CIS NO. CHA-82-2021
CNR No.PBMO03-000684-2021
Date of Decision: 19.03.2021

State of Punjab

Versus

Manjit Kumar alias Ghugi son of Rakha Ram, resident of Civil Lines, Moga.
.....Accused

FIR No.11 dated 23.01.2021
Under Sections: 13A-3-67 of Gambling Act
P.S City, Moga.

Present: Sh. Gurdeep Singh APP for the State.
Accused on bail with counsel Sh. Rajpal Sharma Advocate.

J U D G M E N T

The above named accused was forwarded by SHO, Police Station City, Moga to stand trial for having committed an offence punishable under Section 13A-3-67 of Gambling Act.

2. The factual score as depicted in the police report filed under Section 173 (2) of Cr.P.C. are that on 23.01.2021, in the area of P.S City, Moga, accused Manjit Kumar alias Ghugi was found playing gambling by darha satta and claiming to give ₹70/- for ₹1/- each and committed an offence punishable under Section 13-A of Gambling Act. After completion of investigation challan under section 173 Cr.PC was presented in court on 08.03.2021 against the accused.

3. Copies of documents were supplied to accused free of costs as required under Section 207 of Cr. P.C.

4. From the perusal of the police report sent by the police under Section 173 Cr.P.C. (Challan) and the documents referred therein a prima-facie case under Section 13-A of Gambling Act was made out against the accused and he was charge-sheeted there under, to which he pleaded not guilty and claimed trial. Then, the case proceeded for recording of prosecution evidence.

5. In order to prove its case, prosecution has examined Investigating Officer of present case i.e. PW1 HC Harmesh Lal who appeared and deposed that on 23.01.2021, he was working as Investigating Officer at P.S City, Moga and on that day, he alongwith C. Rajinder Singh and other police officials were on patrolling in the area of P.S City, Moga and when they reached near T-Point, Zira Road, then secret informer informed him that Manjit Kumar alias Ghugi son of Rakha Ram, resident of Civil Lines, Moga is habitual of organizing gambling activities i.e. darha satta and today also at Teacher Colony turn about Zira Road, Moga, he is openly in loud voice telling to the general public that who so ever do darha satta on any number and if that person wins then, that person will get ₹70/- in return of ₹1/- each and if the number specified by that person will not come, then that person will get nothing. If immediate raid be conducted then said person can be apprehended red handedly. Finding the information being reliable and trustworthy, ruqa Ex.P1 was prepared and same was sent to police station to lodge FIR against the accused, on the basis of which, FIR Ex.P2 was registered by ASI Sahib Singh and the endorsement of the same is Ex.P3. Thereafter, they reached at the disclosed place and he handed over one fifty rupees note bearing no.5DC436471 to C. Rajinder Singh and instructed him to go near the accused and make number at 07/50 and thereafter, to give signal to

them. Thereafter, C. Rajinder Singh did the same and after making number, he signaled the police party and they apprehended the said person. Thereafter, he inquired the matter from the said person on which, he disclosed his name as Manjit Singh alias Ghugi son of Rakha Ram, resident of Civil Lines, Moga. The said person was holding paper gatta in his left hand and in his right hand, he was holding one ball pen. On checking of his lower pants, ₹850/- alongwith note of ₹50/- bearing no.5DC436471 was recovered from the right pocket of his lower pants. Thereafter, he took all the articles and currency notes into police possession vide memo Ex.P4. Thereafter, he took into police possession receipt issued by the accused to C. Rajinder Singh vide memo Ex.P5. The recovered darha satta paper is Ex.P6. Thereafter, he arrested the accused and prepared arrest memo Ex.P7. All the said memos were witnessed by C. Rajinder Singh and HC Gurpreet Singh. He also prepared site plan which is Ex.P8. On return to the police station, he handed over the entire case property to MHC. During investigation, he recorded the statements of witnesses. After the completion of investigation, final report under Section 173 of Cr.P.C. was prepared by Inspector Jaswant Singh, the then SHO of P.S City, Moga and the challan was presented in the court. He identified the accused in the court. Further, he proved on record case property as MO1.

6. Prosecution further examined memo witness i.e. PW2 C. Rajinder Singh who appeared and corroborated the version of PW1 HC Harmesh Lal.

7. Thereafter, prosecution failed to conclude its evidence and same is hereby closed by order vide my separate order of even date.

8. The statement of accused under Section 313 Cr. P.C was

recorded, in which all the incriminating evidence appearing against the accused by way of prosecution evidence was put to him to which he denied and pleaded his innocence. Accused alleged that he has been falsely implicated in the present case. Accused opted to lead no evidence in defence.

9. I have heard arguments of the learned APP for the State and learned defence counsel and have also gone through the case file carefully. The point for determination relevant for disposal of the present case are framed as under:-

“Whether on 23.01.2021, accused was found playing gambling by way of darha satta”

10. Learned APP for the State has argued that from the testimony of prosecution witnesses case of the prosecution has been duly proved. He has prayed that accused be convicted for the charges framed against him.

11. On the other hand, the learned defence counsel controverted all the contentions raised above. He has vehemently argued that the prosecution has failed to prove its case against the accused beyond shadow of reasonable doubt. The statements of the witnesses examined by the prosecution do not connect the guilt of the accused with the commission of alleged offences in any manner. Therefore, the accused deserves to be acquitted.

12. The prosecution was under heavy burden to prove that on 23.01.2021, accused was found playing gambling by way of darha satta. In order to prove this, prosecution has examined Investigating Officer of present case i.e. HC Harmesh Lal as PW1 who appeared and fully supported the case of the prosecution. He has stated that the accused was found playing gambling by way of darha satta and claiming to give ₹70/- to ₹1/- each and proved on record ruqa as Ex.P1, FIR as Ex.P2, endorsement as Ex.P3,

recovery memos as Ex.P4 and Ex.P5, darha satta paper as Ex.P6, arrest memo as Ex.P7, site plan as Ex.P8 and case property as MO1.

13. The prosecution in order to corroborate the investigating Officer, has examined PW2 C. Rajinder Singh, who has fully supported and corroborated the prosecution version. He has stated that the accused was found playing gambling by way of darha satta.

14. Accused has cross examined the above said witness but nothing favourable could be oozed out and the evidence of prosecution is to be taken on its face value. Moreover, testimonies of police officials can not be doubted as accused has not alleged or proved any enmity against such police officials to depose against him.

15. From the evidence of PW1 HC Harmesh Lal and PW2 C. Rajinder Singh, the prosecution has fully proved that the accused was found playing gambling by way of darha satta. So, the accused is held guilty for the offence punishable under Section 13-A of Gambling Act and accused is hereby convicted under the same. Let the accused be heard on the quantum of sentence.

(Amandeep Kaur Chahal), PCS,
Chief Judicial Magistrate,
Moga / (U.I.D. No.PB0248)
(Direct Dictation)

Pronounced:-

Date of judgment:19.03.2021

(Lovish, Stenographer G-II)

QUANTUM OF SENTENCE

Present: Sh. Gurdeep Singh APP for the State.
Convict in custody, represented by Sh. Rajpal Sharma
Advocate.

16. Under the statutory provisions of section 248 (2) Cr.P.C convict has made a verbal plea that he is poor person and is the sole bread earner of his family and is first offender, so a lenient view is taken. In view of the age, antecedents and character of the convict as well as nature of offence committed by him, the convict is sentenced to pay a fine of ₹200/- for the offence under Section 13-A of Gambling Act and in default of payment of fine to undergo rigorous imprisonment for two days. Fine paid. Case property, if any, be disposed of as per rules after awaiting the result of appeal or revision, if any. File be consigned to the Judicial Record Room.

(Amandeep Kaur Chahal), PCS,
Chief Judicial Magistrate,
Moga / (U.I.D. No.PB0248)

Pronounced:-
Date of order:19.03.2021
(Lovish, Stenographer G-II)