

PBFZD10012742024



**IN THE COURT OF SH.DAVINDER SINGH, PCS.,
JUDICIAL MAGISTRATE 1st CLASS, GURUHARSAHAI
(UNIQUE IDENTIFICATION CODE PB-0575)**

CIS No: CHI/139/2024
CNR No: PBFZD10012742024
DECIDED ON: 18.04.2025

State

Versus

Manjit Singh son of Gajjan Singh son of Chand Singh, resident of
village Jhandu Wala, Police Station Guruharsahai, District Ferozepur.

.....Accused

FIR No.21 dated 26.02.2023
Under Section 379 of Indian Penal Code and 21(3) of
Mines and Minerals Development Regulation Act 1957.
Police Station Lakho Ke Behram.

Present: Sh. Amanpreet Singh, Learned APP for the State.
Accused Manjit Singh on bail, in person,
Sh. S.S.Sidhu, Advocate, counsel for accused.

JUDGMENT

The above named accused has been forwarded by SHO
Police Station Lakho Ke Behram to face trial for having committed an

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offence punishable under Section under Section 379 of Indian Penal Code and Section 21(3) of Mines and Minerals Development Regulation Act 1957.

2. Briefly facts of the case are that on 26.02.2023, ASI Sukhdev Raj alongwith other police officials were on patrolling in connection with checking of suspected persons on private vehicle and were going towards in the area of police station Lakho Ke Behram to village Sharih Wala, Dila Ram, Kohar Singh Wala etc. and when the police party reached near Sharih Wala, near Radha Swami Dera, one tractor Make Eicher alongwith trolley loaded with sand was coming from the side of village Dila Ram. ASI Sukhev Raj alongwith other police official stop the tractor and inquired his name. Upon inquiry, he disclosed his name as Manjit Singh son of Sohan Singh son of Chan Singh, resident of village Jhandu Wala, Police Station Guruharsahai, District Ferozepur. ASI Sukhdev Raj inquired about receipt of sand but he could not produce the same. It was found that Manjit Singh had stolen the sand from the pit. Office under Section 379 of IPC and 21(3) Mines and Minerals (Regulation of Development) Act 1957 was against the accused. Ruqa was sent through PHG Kartar Singh

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No.5371 to police station Guruharsahai, on the basis of which present FIR was registered. ASI Sukhdev Raj in the presence of other police officials checked the tractor Eicher without number, Colour Red bearing Engine no.528029154897 and Chasis no.92801140524 alongwith trolley double tyre loaded with sand and took sample of one kg of sand from recovered trolley and converted the same into sample parcel and sealed the sample parcel with his seal bearing impression 'SR'. Specimen seal was also prepared. Seal after use was handed over to HC Harban Lal. ASI Sukhdev Raj took the case property into police possession vide recovery memo which was witnessed by witnesses. Rough site plan was prepared with correct marginal notes. Thereafter, memo of grounds of arrest, personal search memo and intimation memos were prepared which were witnessed by witnesses. Statement of witnesses under Section 161 Cr.P.C was recorded. On return to police station, case property was handed over to MHC and accused was lodged in police lockup. ASI Sukhdev Raj produced the sample of sand before Rajpal, Mining Inspector Ferozepur who checked the sand and handed over him report. During investigation, the ownership of tractor Eicher bearing RC No.PB-61D-4242 has been verified.

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Statement of witnesses under Section 161 Cr.P.C was recorded and after completion of necessary formalities, challan against the accused was prepared and presented in the court.

3. On presentation of challan, copies of challan and others documents were supplied to the accused free of cost as required under Section 207 Cr.P.C.

4. On appearance of accused, finding a prima facie case Under Sections 379 IPC and 21(3) of Mines and Minerals Development Regulation Act 1957, accused was charge sheeted under the said sections to which he pleaded not guilty and claimed for trial.

5. In order to prove its case, prosecution has examined HC Harbans Lal as PW-1, ASI Sukhdev Raj as PW-2 and Rajpal Mining Officer as PW-3. No other witness was examined by the prosecution and thereafter learned APP for the State closed the prosecution evidence.

6. After closure of prosecution evidence, statement of accused under Section 313 Cr.P.C. was recorded in which all the incriminating evidence appearing against the accused was put to him to

which he pleaded that false case has been registered against him and he has been been falsely implicated in the present case. However, he opted not to lead evidence in defence.

7. I have heard the Ld. APP for the state and accused and have also gone through the case file minutely.

8. Ld. APP for the state argued that the prosecution has fully proved its case by examining the witnesses. He further argued that all the prosecution witnesses had corroborated each other on material facts. Thus, he prayed that the accused be convicted of the charges framed against him.

9. On the other hand, accused argued that the prosecution has miserably failed to prove its case beyond reasonable doubt. He argued that the witnesses examined by the prosecution are official witnesses and as such he cannot be convicted on the sole testimony of said witnesses. He argued that the prosecution has to stand on its own legs to prove its case and not on the weakness of the defence. Thus, he prayed that accused be acquitted of the charges framed against him.

10. The prosecution in order to prove its case had examined

HC Habans Lal as PW-1 who deposed that on 26.02.2023, he was posted at police station Lakho Ke Behram on general duty. On that day, he alongwith investigating officer ASI Sukhdev Raj were conducting the investigation of present case on the basis of of secret information against accused Manjit Singh. During investigation, investigating officer recovered tractor trolley loaded with sand. Investigating officer took the same into police possession vide recovery memo Ex.P1. He further deposed that investigating officer prepared arrest memo Ex.P2, personal search memo Ex.P3, intimation memo Ex.P4. Accused signed the said memos and he attested the above said memos as witness. He further deposed that investigating officer recorded his statement during investigation.

11. The prosecution has further examined ASI Sukhdev Raj as PW-2 who deposed that on 26.02.2023, he was posted at police station Lakho Ke Behram as investigating officer. On that day, he alongwith other police officials were conducting the investigation of present case on the basis of of secret information against accused Manjit Singh. During investigation, he wrote ruqa Ex.PW2/A on which FIR Ex.PW2/B was registered. He recovered tractor trolley loaded with

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sand. He took the same into police possession vide recovery memo Ex.P1. He further proved arrest memo Ex.P2, personal search memo Ex.P3, intimation memo Ex.P4. Accused signed the said memos and HC Habans Lal attested the above said memos as witness. During investigation, he recorded the statement of concerned witnesses. He further deposed that after completion of investigation, challan was prepared and presented by Inspector Kanwaljit Singh, whose signatures he identified.

12. The prosecution has further examined Rajpal, Mining Inspector, Ferozepur as PW-3 who deposed that on 28.03.2023 he was posted as Mining Inspector Ferozepur. On that day, he prepared the test report of Sand Ex.PW3/A in FIR No.21 dated 26.02.2023, police station Lakho Ke Behram which bears his signatures at Point-A.

13. As per allegations leveled by the prosecution, ASI Sukhdev Raj alongwith other police officials were on patrolling in connection with checking of suspected persons on private vehicle and were going towards in the area of police station Lakho Ke Behram to village Sharih Wala, Dila Ram, Kohar Singh Wala etc. and when the

police party reached near Sharih Wala, near Radha Swami Dera, one tractor Make Eicher alongwith trolley loaded with sand was coming from the side of village Dila Ram. ASI Sukhev Raj alongwith other police official stop the tractor and inquired his name. Upon inquiry, he disclosed his name as Manjit Singh son of Sohan Singh son of Chan Singh, resident of village Jhandu Wala, Police Station Guruharsahai, District Ferozepur. ASI Sukhdev Raj inquired about receipt of sand but he could not produce the same. It was found that Manjit Singh had stolen the sand from the pit. Thus, instant case under Section 379 of Indian Penal Code and 21(3) Mines and Minerals (Development & Regulation) Act was got registered.

14. After hearing the contentions raised by Ld. APP for the state and learned counsel for accused and going through the case file, I am of the view that it is for the prosecution to prove that the accused has committed an offence under Section 379 IPC and under Section 21 of Mining Act. From the evidence led on record, the prosecution has failed to prove that accused person had committed an offence under Section 379 IPC but from the witnesses examined by the prosecution the offence under Section 21 of the Mining Act is made out as accused

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has failed to give any explanation from mining the said from his land. Moreover, the witnesses examined by the prosecution were not cross-examined on the material aspect of the case even after getting the opportunity to cross-examine the prosecution witnesses. Moreover, nothing has been brought on record by the accused person in his defence to show that he was entitled under the law to keep the sand which was recovered from him.

15. Thus, from the above discussion, I am of the view that prosecution had failed to establish that the accused had committed an offence under section 379 of Indian Penal Code and is hereby acquitted under the said section. However the prosecution has been able to prove its case under Section 21 of Mines and Minerals Development Regulation Act 1957 and accordingly accused is held guilty under the said section and is hereby convicted. Let he be taken into custody and be heard on the quantum of sentence.

Pronounced in open court
Date of order: 18.04.2025

Sanjeev Kumar,
Stenographer Grade-II (Direct Dictation)

(Davinder Singh)
Judicial Magistrate Ist Class
(Guruaharsahai) UID Code PB-0575

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Quantum of sentence:

Present: Sh. Amanpreet Singh, APP for the state.
Convict Manjit Singh in custody.
Sh. S.S.Sidhu, Advocate, counsel for convict.

16. I have heard the convict with Learned defence counsel and APP for the state. Learned counsel for the convict submitted that convict is innocent and poor person and prayed that lenient view be taken. On the other hand, learned APP for the State had prayed for the strict punishment of the accused as per the gravity of the offence. He further argued that there is minimum sentence prescribed and requested that convict be not released on probation.

17. I have considered the plea of the convict/accused. In view of the nature of offence committed by the convict, he is entitled to be released on probation. Further, 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

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of probation under section 4(1) of the Probation of Offenders Act. Accordingly, the convict is ordered to be released on probation on furnishing personal probation bonds in the sum of **Rs.10,000/-**, valid for six months, with further direction that the convict shall be bound to maintain peace and harmony during the said probation period of six months and if breach the peace and harmony or violate the conditions of the personal probation bonds 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 convict is also burdened with **Rs.2000/-** as costs of litigation, which is paid. The case property be destroyed after the expiry of appeal or revision as the case may be. File be consigned to record room after the necessary compliance.

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Judicial Magistrate Ist Class
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