

IN THE COURT OF SH. JAGWINDER SINGH, PCS,
JUDICIAL MAGISTRATE IST CLASS, Zira.

PBFZA10010232018



CIS No. CHI 139-2018
CNR No. PBFZA1-001023-2018
Decided on : 03.01.2024

State
Versus

Gurnam Singh son of Tara Singh, resident of village Buh Gujran, now
resident of Amritsar Road, Makhu, Tehsil Zira, District Ferozepur.

.....Accused.

FIR No.134 dated 23.09.2017
under sections 309, 186 IPC
Police Station : Makhu.

Present:- APP for the State.

Accused on bail with counsel Sh. RP Singh, Advocate.

JUDGMENT:-

1. Accused here-in-above has been sent by the SHO, Police Station Makhu, to face trial, in case FIR No.134 dated 23.09.2017 under sections 309, 186 IPC.

2. Brief facts of the prosecution case are that on 23.09.2017 ASI Bikram Singh, Investigating Officer was present at Police Station Makhu. On that day Gursewak Singh Naib Tehsildar along with Om Parkash Bailiff, Lachhman Singh Kanoongo handed over one order number 677 dated 22.09.2017 passed by the court of Sh. Lavdeep Hundal, Additional Civil Judge (Senior Division), Zira, in connection with execution

application titled Balwinder Singh Versus Gurnam Singh to MHC of Police Station Makhu. He requested for police help as per orders of the court, on which IO along with ASI Sona Singh, HC Jagroop Singh and others accompanied Naib Tehsildar and others and went to Amritsar Road, Makhu, in the house of accused Gurnam Singh, where decree holder Balwinder Singh also present there as the possession of the house was to be handed over to him. Accused Gurnam Singh along with two ladies were present on the roof of the house and house was locked from outside. Naib Tehsildar Gursewak Singh and Bailiff Om Parkash requested accused to open the lock of the house but accused stated that he will not come down. On which bailiff Om Parkash stated to his colleagues to break down the lock of the house, then accused Gurnam Singh entangled rope around his neck and hanged towards the road side. He tried to commit suicide. IO arranged ladder from the nearby shop and cut down the rope entangled around the neck of accused and took down the accused. IO taken accused Medicare Hospital Makhu. Accused obstructed the officials from performing their duty. IO sent ruqa to the police station. On this basis of which FIR was registered by ASI Lal Singh. IO prepared site plan and recorded statements of concerned witnesses. On 25.09.2017 IO arrested accused Gurnam Singh and prepared various memos.

3. On completion of necessary formalities of the investigation,

challan was presented before the Court and copies of the challan were supplied to the accused free of costs as per Section 207 Cr.P.C.

4. Finding a prima facie case, charge was framed against the accused under sections 309 and 186 of IPC. Charge was read over and explained to the accused, to which the accused pleaded not guilty and claimed trial.

5. The prosecution in support of its case examined following evidence:-

(I) Oral Evidence:-

Sr. No.	Name
PW1	Retired ASI Bikram Singh, Investigating Officer
PW2	Gursewak Singh Bhullar, Naib Tehsildar
PW3	Om Parkash, Baliff
PW4	Dr.Vidya Sagar Juneja
PW5	Lachhman Singh, Kanoongo

(II) Documentary evidence:-

Ruqa	Ex.P1
Endorsement on FIR	Ex.P2
Possession memo	Ex.P3
Site plan	Ex.P4
Rapat no.21 dated 23.09.2017	Ex.P5
Court order bearing no.677 dated 22.09.2017	Ex.P6
Intimation issued by Medical Officer	Ex.P7
Arrest memo	Ex.P8
Personal search memo	Ex.P9

Complaint under section 195 Cr.P.C.	Ex.P10
Bead head ticket	Ex.PW4/A

6. Thereafter, no other prosecution witness has been examined and evidence of the prosecution was closed by order of the Court.

7. The statement of accused under Section 313 Cr.P.C. was recorded, putting him the entire incriminating circumstances appearing in prosecution evidence against him to which he pleaded innocence and stated that police has registered a false case against him on the instance of Balwinder Singh and Gurjant Singh only execute and satisfy their execution petition for taking possession of his house.

8. The learned APP for the State has contended that the prosecution has been able to bring home the guilt of the accused beyond the shadow of reasonable doubt and the accused should be punished severely for the crime committed by him.

9. On the other hand, learned defence counsel submitted that no independent witness had been joined by the police party. Accused has been falsely implicated in the present case.

10. I have heard the rival contentions and have perused the record carefully.

11. In order to support the allegations against the accused, prosecution has examined PW1 Retired ASI Bikram Singh, who deposed

that on 23.09.2017 he was posted as ASI at Police Station Makhu. On that day Gursewak Singh, Naib Tehsildar along with Sh.Om Parkash, Bailiff, Lachhman Singh, Kanoongo handed over one order number 677 dated 22.09.2017 passed by the court of Sh. Lavdeep Hundal, Additional Civil Judge (Senior Division), Zira, in connection with execution application titled Balwinder Singh Versus Gurnam Singh to MHC of Police Station Makhu. He requested for police help as per orders of the court, on which he along with ASI Sona Singh, HC Jagroop Singh and others accompanied Naib Tehsildar went to Amritsar Road, Makhu, in the house of accused Gurnam Singh, where decree holder Balwinder Singh was also present there as the possession of the house was to be handed over to him. PW1 further stated that accused Gurnam Singh along with two ladies were present on the roof of the house and house was locked from outside. Naib Tehsildar, Gursewak Singh and Bailiff Om Parkash requested accused to open the lock of the house but accused stated that he will not come down. On which bailiff Om Parkash stated to his colleagues to break down the lock of the house, then accused Gurnam Singh entangled rope around his neck and hanged towards the road side. He tried to commit suicide. PW1 further stated that he arranged ladder from the nearby shop and cut down the rope entangled round the neck of accused and took down the accused. He took the accused Medicare Hospital, Makhu. PW1 further stated that

accused obstructed them from performing their duty. He sent ruqa which is marked as Ex.P1 to the police station. On this basis of which FIR was registered by ASI Lal Singh and endorsement which is marked as Ex.P2 was made by him. PW1 further stated that he taken into possession plastic rope vide separate memo which is marked as Ex.P3. He prepared site plan which is marked as Ex. P4. PW1 also proved on record the copy of Rapat 741 No.21 dated 23.09.2017 which is marked as Ex. P5. Order of court bearing No. 677 dated 22.09.2017 which is marked as Ex. P6. The intimation issued by Medical Officer of Medicare Hospital Makhu which is marked as Ex. P7. He recorded statements of concerned witnesses. PW1 further stated that on 25.09.2017 he arrested accused Gurnam Singh vide arrest memo which is marked as Ex.P8 and prepared personal search memo which is marked as Ex.P9. Above said memos were witnessed by HC Baljinder Singh. PW1 also filed complaint under section 195 Cr.P.C. which is marked as Ex.P10. During cross-examination he stated that they have not joined any independent witness.

12. Prosecution has also examined PW2 Gursewak Singh Bhullar, Naib Tehsildar, who stated that on 23.09.2017, he was posted at Naib Tehsildar Zira and he was also having additional charge of Makhu. On that day he along with Om Parkash Bailiff, Lachhman Singh Kanoongo and with the police officials went to the spot i.e. house situated at Amritsar road

Makhu in compliance of order of the court of Sh. Lavdeep Hundal, Additional Civil Judge (Senior Division), Zira in case titled as Balwinder Singh Versus Gurnam Singh, which is the execution application and learned Court issued warrants of possession in above said execution. PW2 further stated that when they reached at the spot they found that lock was affixed from outside on the house, whose possession was to be delivered to the decree holder. He also found that Gurnam Singh JD was present on the roof of the house. Police party and Bailiff requested him to open the lock of house but he refused to open the house. When Bailiff tried to break down the lock of house then suddenly Gurnam Singh hanged himself towards outer side of house with the help of rope entangled around his neck and tried to commit suicide. Police officials managed to save him after cutting the rope, which was entangled around his neck. PW2 further stated that the whole occurrence was witnessed by him as he was present there being Magistrate as per orders of the court. During cross-examination he stated that he had not entered into the house of accused Gurnam Singh, so he cannot tell the number of rooms constructed in the home. PW2 during cross-examination further stated that no videography or photography was done at the spot. Police officials had not prepared any document in his presence.

13. Thereafter prosecution has examined PW3 Om Parkash, Bailiff,

who stated that on 23.09.2017, he was posted as Bailiff in the Court of Learned Additional Civil Judge (Senior Division), Zira. Warrants of possession for possession of property situated at Makhu were entrusted to him. On that day he along with Gursewak Singh Naib Tehsildar, Lachhman Singh Kanoongo and police officials went to house of Gurnam Singh situated at Amritsar Road Makhu. Balwinder Singh decree holder also accompanied them as possession of the house was to be delivered to decree holder Balwinder Singh. PW3 further stated that accused Gurnam Singh was present on the roof of his house and house was locked from the outside. They requested accused Gurnam Singh to come down and to open the lock of the house but he denied for the same. Accused entangled rope around the neck and hanged himself towards the road to commit suicide. Police officials managed to save the accused from committing suicide and taken him to the civil hospital. His statement was recorded. PW3 also proved on record the order passed in execution titled as Balwinder Singh Versus Gurnam Singh which is marked as Ex. P6. During cross-examination he stated that he has not entered in the house of accused Gurnam Singh. All the family members of accused were present there. He further stated that warrants of possession does not execute on that day.

14. Thereafter prosecution has examined PW4 Dr. Vidya Sagar Juneja, Medical Officer, who stated that on 23.09.2017, he was working as

medical officer at Medicare Hospital Makhu. On that day patient Gurnam Singh son of Tara Singh, resident of Ward No.12, Makhu, was brought to their hospital with alleged history of hanging at home. Patient was irritable. Heart beating 160-100. Pulse rate was 100 per minute. There was red ligature mark was present over the neck and extending back sparing the occipital region. The patient was treated with appropriate medicine and was under observation 23.09.2017 to 25.09.2017 and discharged satisfactory condition. PW4 also proved on record the bed head ticket and attested copy of the same is marked as Ex. PW4/A. During cross-examination he stated that there is possibility that red ligature mark can appear if any other person tied rope around the neck of injured person, cannot be ruled out. He further stated that he does not remember who accompanied the patient at the time of his admission in the hospital.

15. Thereafter prosecution has examined PW5 Lachhman Singh, Kanoongo, who stated that 23.09.2017, he posted was as Kanoongo at Makhu. On that day he along with Om Parkash Bailiff, Bikram Singh ASI and Gursewak Singh Naib Tehsildar Zira went to house of accused situated at Amritsar Road Makhu to comply the order passed by the Court of Sh.Lavdeep Hundal, the then Additional Civil Judge (Senior Division), Zira to execute warrants of possession of house of accused. When they reached there, they found that house of accused was locked from outside.

Accused Gurnam Singh was present on the roof of house. They requested him to open the lock of the house, then he entangled rope around his neck and tried to commit suicide by hanging from the roof towards the street. Police officials had managed to save him. PW5 further stated that whole occurrence was witnessed by him and accused was taken to Civil Hospital by the police officials. His statement was recorded by police. During cross-examination he stated that it is correct that the dispute land is situated within Lal Lakir. He further stated that he does not remember Khasra number or Killa number of the disputed land. He has not produced any jamabandi or Khasra girdwari before IO. He further stated that concerned Patwari was not accompanied with them on that day.

16. As the prosecution witnesses have deposed on oath and the testimony of prosecution witnesses is consistent and corroborates the prosecution story completely. The documents prepared during the course of investigation have also been duly proved on record.

17. I have considered arguments advanced by the learned APP for the state as well as the learned counsel for the accused and have gone through the evidence of the parties. The allegations against accused are that he committed suicide by hanging himself with rope and also obstructed the public servant while they were discharging their duty. On the basis of these allegations charges under sections 309 IPC and 186 IPC were framed

against the accused.

18. In the light of the above discussion, the prosecution case has been duly established and the charges under sections 309 and 186 of IPC against the accused stand proved beyond any reasonable doubt. Accused is, therefore, held guilty and convicted accordingly. Let, the convict be heard on the quantum of sentence.

Pronounced.

Dated : 03.01.2024
Sunny Arora
Stenographer-II

(Jagwinder Singh), PCS,
Judicial Magistrate Ist Class,
Zira/UID PB-0461

Quantum of sentence

Present: APP for the state.
Convict Gurnam Singh in custody.

Learned counsel for the convict submitted that convict is old age person. He is about 64 years old and doing work in a Workshop. He further stated that there are 8 family members depend upon the accused and he is poor person, therefore, lenient view may be taken. Learned APP for the State opposed these submissions.

Having regard to the rival submissions, convict is old age person and is a poor man. The fact that prosecution has not disputed regarding convict being old age, accused is sentenced as under :

Offence	Sentence of imprisonment	Fine	In-default
Offence, under sections 309 IPC	---	Rs.500/-	One month simple imprisonment
Offence, under sections 186 IPC	---	Rs.500/-	One month simple imprisonment

Case property be deposited off as per rules after the expiry of period of appeal/ revision. File be consigned to Judicial Record-Room, Zira, after due compliance.

Pronounced.

Dated : 03.01.2024
Sunny Arora
Stenographer-II

(Jagwinder Singh), PCS,
Judicial Magistrate Ist Class,
Zira/UID PB-0461