

**IN THE COURT OF JAGBIR SINGH MEHNDIRATTA, PCS
CHIEF JUDICIAL MAGISTRATE,
SHAHEED BHAGAT SINGH NAGAR
(UID-PB0296)**

File No.86/1 of 05.07.2022.
Date of decision: 07.01.2023.
CIS No.Chi-253/22.
CNR No. PBSB0300-5012-2022.

FIR No.95 dated 01.05.2021,
U/s.188,269,270 IPC, Section 51 of Disaster
Management Act,2005 & Sect.3 of Epidemic
Diseases Act, 1897,
Police Station : City Nawanshahr.

State	Versus	1	Anshul Kumar son of Adesh Katolia, resident of Near Manji Sahib Gurudwara, Mohalla Guru Teg Bahadur Nagar, Nawanshahr, P.S. City Nawanshahr, District SBS Nagar.
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...Accused.

Present: Sh. Ashok Kumar, Ld. APP for the State.
Accused on bail along with Sh. N.K. Arora, Advocate.

JUDGMENT

Vide challan dated 05.07.2022, the above named accused has been sent up to face trial under Sections 188,269,270 IPC, Section 51 of Disaster Management Act, 2005 & Section 3 of Epidemic Diseases Act, 1897 by the police of Police Station City Nawanshahr, District SBS Nagar.

2. Briefly, the prosecution case is that, on 01.05.2021 at about 07.30 PM, in the area of Karyam Road, Nawanshahr, the above said accused has violated night curfew order by opening his motor-cycle repair shop without any sufficient cause, despite imposition of night curfew and in violation of order promulgated bearing no.15378-15478/MA/Covid-19 dated 27.04.2021 issued under Section 144 Cr.P.C. by the District Magistrate, SBS

Nagar, which was likely to spread the infection of Covid-19 and was dangerous to life and also violated the terms and conditions of lock-down/night curfew so imposed by Central Government/State Government, which is also in violation of Regulation/Order formed under the Epidemic Diseases Act. Thereby, he was found to have committed offences punishable under Sections 188,269,270 of IPC, Section 51 of Disaster Management Act, 2005 and Section 3 of Epidemic Diseases Act, 1897. The FIR was registered. Site plan was prepared. Statements of the witnesses were recorded. The accused was arrested. Thereafter, on completion of the investigation, challan was presented against the accused.

3. On appearance, copies of the documents were supplied to the accused, as required under Section 207 Cr.P.C., free of costs.

4. A *prima facie* case having been made out against the accused, charge for commission of offences punishable under Sections 188,269,270 of IPC, Section 51 of Disaster Management Act, 2005 and Section 3 of Epidemic Diseases Act, 1897 was framed upon the accused, to which he pleaded not guilty and claimed trial.

5. In its evidence, the prosecution has examined ASI Gurmej Lal, who is the Investigating Officer of this case, as PW1. This witness has deposed on the similar lines as narrated in the police report under Section 173 Cr.P.C., as mentioned above, which are not repeated again for the sake of brevity. He has proved documents i.e. ruqa as Ex.P1, FIR as Ex.P2, endorsement as Ex.P3, arrest memo as Ex.P4, memo of personal search of accused as Ex.P5, rough site plan as Ex.P6, complaint under the Disaster

Management Act as Ex.P7, copy order under Section 144 Cr.P.C. as Ex.P8 and complaint under Section 195 Cr.P.C. as Ex.P9.

6. Thereafter, learned APP for the State closed the evidence of the prosecution.

7. Statement of the accused under Section 313 Cr.P.C was recorded, in which all the incriminating evidence adduced and proved against the accused was put across to him. He denied all the allegations levelled against him and pleaded his innocence and false implication in this case. The accused has not opted to lead any evidence in his defence.

8. I have heard learned APP for the State and learned defence counsel and have gone through the file carefully.

9. The following **point for determination** has arisen in this case:-

“Whether on 01.05.2021 at about 07.30 PM, in the area of Karyam Road, Nawanshahr, the above said accused has violated night curfew order by opening his motor-cycle repair shop without any sufficient cause, despite imposition of night curfew and in violation of order promulgated bearing no.15378-15478/MA/Covid-19 dated 27.04.2021 issued under Section 144 Cr.P.C. by the District Magistrate, SBS Nagar, which was likely to spread the infection of Covid-19 and was dangerous to life and also violated the terms and conditions of lock-down/night curfew so imposed by Central Government/ State Government, which is also in violation of Regulation/ Order formed under the Epidemic Diseases Act”.

FINDINGS :-

10. On the basis of the evidence of the prosecution adduced from the mouth of PW1 IO/ASI Gurmej Lal, it is held that the prosecution has

been able to prove that the accused had committed offences under Sections 188, 269 & 270 of IPC, Disaster Management Act and Epidemic Diseases Act, by opening his motor-cycle repair shop, despite imposition of night curfew/lock-down, to prevent the spread of Covid-19 Pandemic, without any permission. The accused has failed to prove on record any evidence to tarnish the statement of PW1. He has also failed to bring on record any evidence to establish any element of hostility with the investigating agency for falsely implicating him in the present case. Therefore, there is nothing on the record to show existence of any reasonable doubt in the version of the prosecution.

11. In view of the above discussion, it is held that the prosecution has been able to prove charges against the accused beyond the shadow of reasonable doubt. Accordingly, the accused facing trial before the Court is held guilty for commission of offences punishable under Sections 188, 269, 270 of IPC, Section 51 of Disaster Management Act, 2005 and Section 3 of Epidemic Diseases Act, 1897. He is, therefore, convicted for the commission of offences punishable under Sections 188, 269, 270 of IPC, Section 51 of Disaster Management Act, 2005 and Section 3 of Epidemic Diseases Act, 1897. Let, the convict be taken into custody and be heard on the quantum of sentence.

Pronounced.
Dated:07.01.2023.
~vikas kumar~

(Jagbir Singh Mehndiratta)
Chief Judicial Magistrate,
(UID NO.PB-0296)
Shaheed Bhagat Singh Nagar.

QUANTUM OF SENTENCE

Present: Sh. Ashok Kumar, Ld. APP for the State
Convict in custody with Sh. N.K. Arora, Advocate.

12. I have heard the convict on the question of sentence. Keeping in view the facts and circumstances of the present case, the convict is sentenced to spend period of probation of Six months with the undertaking to keep peace and maintain good behaviour and not commit any further offence during the said period and to submit personal bond in the sum of Rs.25,000/-. He is further directed to pay costs of litigation to the extent of Rs.1000/-.

13. Litigation costs stand deposited. The case property, if any, be disposed off after the expiry of period of appeal, revision if any. File be consigned to the record room after due compilation.

Pronounced.
Dated:07.01.2023.
~vikas kumar~

(Jagbir Singh Mehndiratta)
Chief Judicial Magistrate,
(UID NO.PB-0296)
Shaheed Bhagat Singh Nagar.

State Vs Anshul Kumar.
CIS No.Chi-253/22.
CNR No.PBSBO300-5012-2022.