

In the Court of Sherryl Sohi, Judicial Magistrate Ist Class, Jalandhar.
(UID No.PB0397)

CIS Case No.	CHA-2721/2020
CNR No.	PBJL030155912020
Date of Institution	15.10.2020
Date of Decision	08.04.2022

State

Versus

1. Vinit son of Surinder Singh, R/o Street No.8, House No.1023, Kabir Nagar, Jalandhar.
2. Chirag son of Surinder Singh, R/o Street No.8, House No.1023, Kabir Nagar, Jalandhar.

..... Accused

FIR No.110 dated 29.10.2019

Under Section 13-A/3/67 of Gambling Act, 294-A and 420 IPC, 7(1), 3 Lotteries (Regulation) Act 1998

Police Station Division No. 1, Jalandhar

Present: Sh.Bharat Bhushan, APP for state.
Accused on bail represented by counsel.

JUDGMENT:

1. The above named accused have been sent up before this Court by Station House Officer of Police Station Division No. 1 to face trial under Section 13-A/3/67 of Gambling Act, 294-A and 420 IPC, 7(1), 3 Lotteries (Regulation) Act 1998.
2. Briefly stated, the facts of the case of the prosecution are that on 29.10.2019, ASI Rakesh Kumar, along with other police party, was present at Canal Bridge, DAV College, Jalandhar in connection with routine patrolling and checking of bad elements, where he received secret information against the accused Vinit and Chirag,

who used to play gambling that at present they were playing gambling at one shop of market near Kabir Nagar, Jalandhar and openly proclaiming that anyone who stakes by given number by paying ₹10/- they shall get ₹100/-, otherwise the amount would be forfeited. If raid is conducted, they can be apprehended red handed. Considering the information to be reliable, qua lodging of the case, Investigating Officer, sent ruqa to the police station for registration of formal First Information Report (F.I.R.) and he himself conducted the raid and apprehended the accused Vinit and Chirag, while playing gambling and on inquiry, they disclosed their names as mentioned above. Before conducting their personal search, Investigating Officer tried to join independent witness but nobody was ready. On search of Vinit, currency notes of ₹.4130/- alongwith three parchi Darra Satta, slip pad and ball pen were recovered and from possession of accused Chirag, currency notes of ₹.2260/- alongwith slip pad and ball pen were recovered, which were taken into possession vide recovery memo. Two computers and one printer was also taken into possession. Prima facie, an offence punishable under Section 13-A of Gambling Act, 294-A & 420 IPC, 7(1), 3 of Lottery Act, 1998 was made out against the accused. Statements of witnesses were also recorded. Accused was arrested and later-on released on bail, the offence being bailable one. However, accused made confessional statement that the owner of said lottery shop is Ganesh Kumar @ Kalu, who is receiving all the earnings and on the basis of it, name of accused Ganesh Kumar

@ Kalu has also been added vide rapat No.21 dated 03.11.2019 and supplementary challan will be presented against him later on. After completion of formalities, challan against the accused Vinit and Chirag was presented before the Court for judicial verdict.

3. Copies of challan were supplied to the accused free of cost, as envisaged under Section 207 Cr.PC. Separate statements of accused was also recorded to that effect.
4. Prima facie case under Section 13-A/3/67 of Gambling Act and 294-A IPC was found against the accused and they were charge-sheeted accordingly, to which accused pleaded not guilty and claimed trial. Therefore prosecution evidence was called for.
5. During prosecution evidence, ASI Mukhtiar Ali appeared as PW1 and ASI Rakesh Kumar appeared as PW2 and thereafter, prosecution evidence was closed by order.
6. Statements of accused under Section 313 Cr.P.C. were recorded in which all the incriminating material was put to accused to which they reiterated their innocence and claimed false implication. Accused did not opt to lead any evidence in his defence.
7. I have heard the counsel for the accused and Ld. APP for the State and have gone through the file carefully and minutely. The following points emerged for determination.

A: Whether above said accused were found playing Gambling by way of Dara Satta at public place by staking money and kept the shop for drawing lottery without any authorization from State Government as per the charges framed by the prosecution ? OPP

B: Whether the prosecution successfully proved the charges against the accused ? OPP

8. Learned APP for the State argued that prosecution case stands totally proved by the deposition of prosecution witness namely ASI Mukhtiar Ali and ASI Rakesh Kumar beyond all reasonable doubts. To Rebut the case of prosecution, Learned counsel for accused vehemently argued that accused have been falsely implicated in the present case and nothing has been recovered from the possession of the accused. It is also claimed that no independent witness has been joined by the investigating officer at the time of recovery from the accused. Therefore, it is prayed that accused may be acquitted.
9. I have considered the arguments of Ld.APP for the State and defence counsel for accused and have gone through the material on record. In order to prove the guilt of accused prosecution examined PW2 ASI Rakesh Kumar, who proved on record ruqa as Ex.P1, FIR as Ex.P2, endoresement as Ex.P3, recovery memo as Ex.P4, Parchi Darra Satta as Ex.P5/1 to Ex.P5/4, site plan as Ex.P6, arrest memo and personal search memo of accused as Ex.P7 and Ex.P10, confessional statements as Ex.P11 and Ex.P12. He categorically stated that accused was apprehended while playing gambling by way of parchi darra satta by staking money at public place. PW MHC Mukhtiar Ali has deposed regarding the deposit of case property. The only defence taken by the accused is that they have been falsely implicated in the present case. No application or

complaint was filed by the accused against the officials, who participated in the investigation proceedings and as such, it appears that the defence taken by the accused is an after thought one. Therefore, it stands proved that accused was found playing gambling at public place by way of parchi darra satta by staking money and running the lottery shop without any valid authorization as the evidence of prosecution witness is consistent, cogent and corroborating with each other.

10. In view of the above said discussion and reasons mentioned, accused are held guilty under Sections 13-A of Gambling Act and 294-A of IPC and convicted thereunder. Let the convicts be heard on the quantum of sentence.

**Pronounced in open court:
Dated: 08.04.2022**

**(Sherryl Sohi),
Judicial Magistrate Ist Class,
Jalandhar. (UID No.PB0397)**

QUANTUM OF SENTENCE:-

**Present:- Sh.Bharat Bhushan, APP for the State.
Convicts in custody.**

1. The convicts prayed lenient view with regard to the sentence and their release on being a first time offender, poor person and sole bread winner of the family but the learned APP opposed their submission and prayed for exemplary punishment.
2. Considering the nature of offence, circumstances and antecedents of convicts, convicts are sentenced to pay fine of ₹.1000/- each for

commission of offence under Section 13-A of Gambling Act and ₹.1000/- each for commission of offence under Section 294-A of IPC and in default of payment of fine to undergo rigorous imprisonment for fifteen days. Fine paid. Case property be confiscated to state after expiry of period of filing of appeal/revision and result thereof, if any. Bail bonds stands discharged and file be consigned to record room, Jalandhar.

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*Nishu/JW**

Present: Sh.Bharat Bhushan, APP for state.
Accused on bail represented by counsel.

PW2 ASI Rakesh Kumar is present and examined. No other PW is present. Perusal of file reveals that charge in the present case has been framed against the accused on 18.01.2020 and since then prosecution has already availed several opportunities to conclude its evidence, but has failed to conclude the same. As such, this court found no justification to adjourn the case further for prosecution evidence. As such, evidence of the prosecution is closed by order. Statement of accused under Section 313 Cr.P.C. recorded. Accused did not opt to lead evidence in defence.

Arguments heard. Vide my separate judgment of even date, accused were convicted for commission of offence punishable u/s 13-A of Gambling Act and 294-A of IPC as stated therein. File be consigned to the record room, Jalandhar.

Pronounced in open court:
Dated: 08.04.2022

(Sherryl Sohi),
Judicial Magistrate Ist Class,
Jalandhar. (UID No.PB0397)

*Nishu/JW**