

HRSOA10008952020



Presented on : 02.07.2020

Registered on : 02.07.2020

Decided on : 29.07.2026

**IN THE COURT OF
Sub Divisional Judicial Magistrate
AT Ganaur, Sonipat
(Presided Over by Ms. Mansi Gaur)**

CHI/206/2020

State	Versus	Manjeet S/o Bijender R/o Shastri Colony, Samalkha, Panipat.
		Accused

FIR No. 0257 dated 14.06.2020
U/S: 186, 279, 332, 353 and 506 IPC
P.S. : Ganaur.

Argued by:- Sh. Hari Gopal, APP for the State.
Accused Manjeet on bail represented by Sh. Ashutosh Tyagi
and Sh. Deepanshu Sharma, Advocates.

JUDGMENT:

The above named accused *has* been sent up by the Station House Officer, **PS Ganaur** to face trial for commission of offence punishable under Sections **186, 279, 332, 353 and 506 of the IPC.**

2. Brief facts of the case of the prosecution as stated by complainant HC Kuldeep in his complaint are that on 13.06.2020, HC Kuldeep along with

Mansi Gaur
SDJM/Ganaur
UID No.HR0446
29.07.2026

Ct. Sachin, SPO Dilbag, HGH Karambir, HGH Rinku were present on patrolling duty at Panchi Road near Agwanpur Mod. In the meantime, an ECHO car bearing No. HR-10AG-9842 was seen coming from the front side. The driver was driving the vehicle in a high speed and in a rash and negligent manner. Thereafter, HC Kuldeep signalled the driver to stop the vehicle, however, the driver broke through the naka and proceeded ahead. Constable Sachin and SPO Dilbag after placing barricades on the road, managed to stop the vehicle with difficulty. Upon being asked his name the driver disclosed his name as Manjeet S/o Bijender. When questioned about the reason for not stopping the vehicle, Manjeet allegedly started abusing the police officials and threatening them with dire consequences. He further assaulted Ct. Sachin and tore his uniform. When HC Kuldeep attempted to apprehend the accused, he noticed the smell of alcohol emanating from the accused's mouth. The ECHO car was taken into police possession. Upon which, complaint was made and police proceedings were initiated. Tehrir was written and sent to police station on the basis of which FIR was registered. Accused was formally arrested. Site plan was drawn, recovery memos were prepared, statements of witnesses u/s 180 BNSS (previously known as Section 161 Cr.P.C.) were recorded and on completion of usual formalities of investigation, final report/challan was presented to the court.

3. Copies of challan were supplied to the accused free of cost as per section 230 of BNSS (previously 207 of Criminal Procedure Code).

4. After finding prima facie case, charge under **Sections 186, 279,**

332, 353 and 506 of IPC was framed against the accused to which he pleaded not guilty and claimed trial. Thereafter, the prosecution was asked to lead its evidence.

5. In order to prove its case, prosecution examined the following witnesses:-

PW1 Ct. Dilbag, No.434/SPT, has reiterated the contents of complaint and supported the version of complainant. Witness has identified the accused present in the court.

PW2 ASI Kuldeep, No.1072/SPT, Complainant/Investigating Officer, has reiterated the contents of his complaint and has proved the possession memo Ex-PW2/A. He further proved the written tehrir Ex-PW2/B. Witness has identified the accused present in the court.

PW3 SI Vijaypal, No.619/SPT, has proved the formal FIR Ex-PW3/B vide endorsement Ex-PW3/A.

PW4 Ct. Sachin, No.2211/SPT, has reiterated the contents of his complaint and has proved the possession memo Ex-PW4/A.

PW5 ASI Surender, No.1581/SPT, Second Investigating Officer, has proved the possession memo Ex-PW4/A. He further proved the site plan Ex-PW5/A. Accused was arrested as per law. Case property was deposited in Malkhana. Witness has identified the accused present in the court.

PW6 Dr. Sanjay Fogat, MO CHC Ganaur, has proved the MLR Ex-PW6/A, medical of accused Ex-PW6/B which bears his signatures.

PW7 Retd. SI Kuldeep Singh, has deposed that on 14.06.2020 he

was posted as Malkhana Mohrar at PS Ganaur. On that day, ASI Surender had deposited the case property i.e. ECHO car bearing No.HR-10AG-9842 in Malkhana sealed with the seal of SK.

Tabulated Chart for Witnesses Examined

Prosecution Witness No.	Name of Witnesses	Documents proved
PW1	Ct. Dilbag	****
PW2	ASI Kuldeep Investigating Officer	i) Ex-PW2/A possession memo ii) Ex.PW2/B written tehrir
PW3	SI Vijaypal	i) Ex.PW3/A endorsement on FIR ii) Ex.PW3/B formal FIR
PW4	Ct. Sachin	i)Ex.PW4/A possession memo
PW5	ASI Surender	i) Ex.PW4/A possession memo ii) Ex-PW5/A site plan
PW6	Dr. Sanjay Forgat	i)Ex.PW6/A MLR ii) Ex-PW6/B medical of accused
PW7	Retd. SI Kuldeep Singh	*****

6. Thereafter, learned APP for the State has given up the PW namely SHO Rajesh being unnecessary and thereafter, closed the prosecution evidence vide separately recorded statement dated **10.09.2024**.

7. Statement of accused under Section 351 BNSS (previously known as 313 Cr.P.C.) was duly recorded wherein *he* denied all the allegations levelled against *him* and pleaded innocence.

8. No defence evidence was led by the accused. Thereafter, learned counsel for the accused closed the defence evidence vide separately recorded statement **today**.

9. I have heard the contentions of learned Assistant Public Prosecutor as well as learned defence counsel and have gone through the case file very carefully.

10. From careful perusal of the file and the evidence on record. I have heard the contentions raised and arguments advanced by the Ld. counsel for parties from which I found the following infirmities in the version of the prosecution:

11. For establishing the offence punishable under **sections 186, 279, 332, 353 and 506 of the IPC** and to substantiate the allegations levelled against the accused, the prosecution examined total **Seven witnesses**. From careful perusal of the file and the evidence on record, there are **several inherent contradictions** in the case of prosecution which hit at the roots of the case set up by the prosecution. I have heard the contentions raised and arguments advanced by the Ld. counsel for parties from which I found the following infirmities in the version of the prosecution:

First infirmity in the case of the prosecution is that apart from the alleged disclosure of the accused, there is no other evidence on record to connect the accused with the crime in this case. Sole link evidence to arrest the accused being the disclosure. Furthermore, it is even otherwise settled preposition of law that disclosure of accused recorded

in the police custody does not carry evidentiary value and cannot form the basis for conviction. Though it may carry any corroborative value but cannot be relied upon against the accused. Once the accused is in police custody, possibility of pressure used upon him cannot be ruled out. **Thus, disclosure statement of accused cannot be the sole basis for connecting the accused with the crime.**

Second infirmity in the case of the prosecution is that initial Investigating Officer and the complainant in the present case are the same i.e. **PW2 ASI Kuldeep**. The Hon'ble Supreme Court and the Hon'ble Punjab & Haryana High Court have held in various judgments that *it is a material irregularity when the complainant and the Investigating Officer are the same person in a criminal case as in such as case the chances of manipulation increases. The complainant would do any act to prove his case, in such circumstances also the testimony of investigating officer in the present case cannot be relied upon.*

Third Infirmity in the present case is that PW4 Constable Sachin in his deposition stated that on the fateful day of incidence, one another person was also present with the accused, but no effort has been made by the police to identify and include the said another person in the investigation. The said another person is nowhere found any mention on the case diary, which creates a serious dent on the case of prosecution. Had the said another person been made part of the investigation, it would have made the prosecution case stand on better

footing.

Fourth Infirmary in the case of prosecution is that PW4 stated that accused was arrested and the vehicle was taken into custody and a liquor bottle was found from the said vehicle. However, there is no any liquor bottle produced by the prosecution that can substantiate the claim of accused being in an inebriated condition and was carrying liquor with him. The prosecution failed to establish the accused being in a drunken state during the time of alleged incident.

Fifth infirmity in the case is that the alleged torn uniform of PW4 was never produced before the court during prosecution evidence. The said torn uniform, which forms the basis of the present case was although made part of the investigation as Ex.PW4/A, but was never presented by the prosecution before the court so as to give a link between the accused wrong doing and prosecution's case. Furthermore, it is also worth to note that PW5, the second investigating officer did not make any inquiry at the time of investigation of the case as to how many police personnel were part of patrolling team at the time of alleged incident, whereas, it could have been beneficial for the prosecution had the investigating officer brought on record that exactly how many police personnel were the part of patrolling team and what were their specific role during the alleged incident. It is stated in the complaint that HGH Karambir and HGH Rinku were the part of patrolling team, but prosecution neither made them part of the investigation nor were they

ever examined before the court to support the case of prosecution. There comes out clear contradictions between the complainant's version of the incident and the spectrum of investigation carried out by different investigating officers.

12. In the present case the initial investigating officer of the case i.e. **PW2 ASI Kuldeep** is also the complainant and also conducted complete investigation/recovery proceedings in the case. The investigation has not been conducted in presence of any independent witness. This has caused great and material prejudice to the rights of the accused as it has been repeatedly held in several judgments that where part of the investigation has been done by the complainant, untainted and unbiased investigation cannot be expected.

*Sixth infirmity in the case of prosecution is that no independent witness was joined at the time of recording disclosure statement suffered by the accused. Nor any independent witness of the occurrence has been cited despite availability of people at the spot. For the above discussed reasons the prosecution has failed to point out the involvement of the accused in the present case. “**No public person/independent witness was joined in the investigation despite availability. No satisfactory explanation has been furnished in this regard from the side of the prosecution. So, non joining of an independent witness causes serious doubt in the story of prosecution especially in the circumstances when case started from the testimonies of police officials and so without***

joining independent witness, a serious doubt is created about the veracity of prosecution case.” This view of mine is supported by case titled *Sahib Singh Vs. State of Punjab, 1997 (2) CCJ (SC) 244*.

13. There is not even an iota of evidence on record to prove that the investigating officer even made any effort to join any member of public as witness in the present case. Section 103 BNSS (previously known as 100 Cr.P.C.) provides that the investigating officer shall make effort to join independent witnesses in the investigation and if any such person refuses to be a witness then the investigating officer shall serve a notice under Section 103 BNSS (previously known as 100 Cr.P.C.) upon such person for not joining the investigation. There is no such notice on record which prima facie shows that the investigating officer ever made any effort to join any independent witness investigation of the present case.

14. Irrespective of the aforesaid facts, even if, for the sake of arguments, it is presumed that the accused was driving the vehicle in question and accident in question took place with the said vehicle, then also rash and negligent driving of the vehicle by the accused is not established on the case file. There are mere bald oral averments that accused was rash and negligent while driving the vehicle in question and was driving the same at high speed, which are not sustainable. However, it has not been alleged or proved on the case file as to how accused was rash and negligent in driving the vehicle. **No evidence of**

high speed i.e. skid mark etc. are collected from the spot. Even it is not the proved case of the prosecution that accused was driving towards wrong side of road or at unreasonable high speed. Needless to say that this is a criminal case where each allegation has to be specifically proved and court can not presume the guilt of a person on the basis of probabilities. In prevalence of such inherent contradictions merely lodging the FIR by name or number of vehicle does not prove the involvement of the accused person in the alleged offence. Further more, allegation of rash and negligent driving of the accused is not established on case file and thus, question of accused being held guilty for offence punishable under Sections **186, 279, 332, 353 and 506 of IPC**, does not arise.

15. Further, there is allegation against the accused under section **506 of IPC** also. So far as the allegations of criminal intimidation, the threat must be intended to have affect the mind of the person threatened. The threat must be one which can be put into execution by the person threatening. Mere out burst by a person that he would kill the complainant, is not sufficient to hold that offence would fall u/s 506 of IPC. In the present case, the allegations that the accused gave threat of life to the complainant verbally does not constitute the criminal intimidation. In this regard, reference can be made to **Surinder Suri Vs. State of Haryana, 1996(2) Criminal Court Judgments 196 (P&H)** and **Rajinder Dutt Vs. State of Haryana, 1993(1) Recent Criminal**

Reports 236 (P&H). Therefore, the offence under section 506 IPC is not substantiated against the accused.

16. At the forefront of course has come the **question of involvement of the accused**. As above discussed, examined witnesses **failed to connect the accused with the offence in question, and to support the prosecution case.** Accordingly, the identity of the accused remain unproved. In these circumstances, it cannot be believed in **absence of any cogent evidence that accused had committed the said offence.** Therefore, benefit of doubt has to be given to the accused. Hence, the offence against accused under **Sections 186, 279, 332, 353 and 506 of the IPC remains unproved.**

17. No doubt wrongful acquittals are undesirable and shake the confidence of the people in the judicial system, much worse, however, is the wrongful conviction of an innocent man, the consequences of conviction of an innocent man are far more serious and its reverberations cannot but be felt in a civilized society, therefore, it is the duty of the court to avoid any wrongful convictions and to grant benefit of doubt wherever the need arises.

18. Keeping in view the above facts, the prosecution has miserably failed to prove the guilt of the accused beyond reasonable doubt. Hence, by affording benefit of doubt, **accused Manjeet is acquitted of the charges levelled against him.** Previous bail bonds and surety bonds of **above named accused** be discharged (if not already forfeited). Bail bonds in sum of **Rs. 40,000/-** with one like surety, taken afresh, as per provisions

of Section 481 of BNSS (previously 437A Cr.P.C.), to remain in force till period for filing of appeal expires. **Bonds of accused furnished, accepted and attested.** File be consigned to record room after due compliance.

ANNOUNCED IN OPEN COURT ON:

Dated: 29.07.2026

(Mansi Gaur),
Sub-divisional Judicial Magistrate
Ganaur/UID No.HR0446.

Note: This judgment contains **(12)** pages and all the pages have been checked and signed by me.

Neha Sharma, SG-III

(Mansi Gaur),
Sub-divisional Judicial Magistrate
Ganaur/UID No.HR0446.