

In the court of Gurmehtab Singh, PCS,
Judicial Magistrate Ist Class, Malerkotla UID No.PB0473

Registration No...CHI-119-2019
CNR No.PBSGC1-001266-2019
Decided on:..... 12.06.2019

State	Versus	Jagdev Singh S/o.Nachhattar Singh, R/o. Village Himatpura, P.S. Nihalsinghwala, District MogaAccused
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FIR No. 40 dated 11.06.2019
U/s. 283 IPC,
P.S. City Ahmedgarh

Present: Sh. Lohit Goyal, Id. APP for the State.
Accused on bail with Sh. B.S. Barkatpura, Adv.

JUDGMENT:

The above named accused has been sent up by the police of Police Station, City Ahmedgarh for facing trial under sections 283 IPC in the above noted FIR.

2 The brief facts of the prosecution case are that on 11.06.2019, ASI Surjit Singh along with other police officials HC Darshan Singh, C. Mandeep Singh, in connection with patrolling and checking of suspected persons was present at Dhulkot Chowk, Ahmedgarh. It was at about 8.05 AM then from the side of village Chhapar, one tractor bearing no.PB-29X-6554 make Sonalika along with trolley was seen coming, which was overloaded with husk 13/14 feet upward and 4/4 feet wide towards the sides of the trolley and it was creating obstruction in the public way and traffic so as to endanger general public. The tractor trolley was got stopped and driver of the tractor trolley apprehended. On enquiry the

driver of tractor trolley told his name as named above. The tractor trolley overloaded with husk was taken in to police possession vide separate recovery memo. Ruqa was sent to police station on the basis of which formal FIR was lodged. Rough site plan of the place of occurrence was prepared. Statements of witnesses were recorded. Accused was arrested and released on bail. After completion of investigation, challan against the accused was presented in the court.

3 On presentation of the challan in the Court, copies of all the documents relied upon by the prosecution were supplied to the accused free of costs as required Under Section 207 Cr.P.C.

4 On finding a prima facie case, charge Under Section 283 IPC was framed against the accused to which, accused pleaded not guilty and claimed trial.

5 In order to prove its case, prosecution examined PW1 ASI Surjit Singh and HC Lakhvir Singh and thereafter the evidence of the prosecution was closed by order.

6 Statement of the accused Under Section 313 Cr.P.C. was recorded wherein all the incriminating circumstances appearing against the accused was put to the accused and the accused denied the same and pleaded innocence and false implication in the case. The accused did not desire to lead his defence evidence.

7 Ld. APP for the State contended that on 11.06.2019, at about 8.05 AM in the area of P.S.City Ahmedgarh, the accused was found driving tractor trolley overloaded with husk up to 13/14 feet upward and

4/4 feet on both sides of the trolley, thereby causing obstruction in the public way and the case of the prosecution has been duly proved from the testimonies of prosecution witnesses and prayed that the accused is liable to be convicted.

8 On the other hand, learned defence counsel has contended that prosecution has failed to join the independent witness and non-joining of independent witness is fatal to prosecution. He further contended that the accused has been falsely implicated in the present case and lastly prayed that the accused is liable to be acquitted.

9 I have considered the respective submission of ld APP for the State as well as learned defence counsel and have gone through the case file, very minutely. The prosecution in order to prove its case has examined PW1 ASI Surjit Singh, Investigating Officer who has unfolded the prosecution story as stated in forgoing paras by proving on the file all material documents i.e. Ex.P1 vide which the tractor-trolley was taken into police possession, arrest memo of accused Ex.P2, personal search memo Ex.P3, ruqa Ex.P4, formal FIR Ex.P5, endorsement regarding registration of FIR as Ex.P6, rough site plan as Ex.P7. He also proved the case property as Ex.MO1. His statement has also been duly corroborated and supported by the testimony of PW2 HC Mandeep Singh, who has deposed as per the statement of PW1 which need not be repeated for the sake of brevity. Opportunity was afforded to the accused to cross-examine the witnesses, but despite cross-examination the learned defence counsel has failed to extract anything favourable to the case of accused. There is

nothing on the record to disbelieve the statements of prosecution witnesses. No material discrepancy has been pointed out in the statements of prosecution witnesses.

10 The plea taken by the accused that he has been falsely implicated in the present case can not be accepted for want of cogent and convincing evidence as no evidence has been adduced by the accused in his defence to prove that he has been falsely implicated in the present case due to any previous enmity with the police officials.

11 So far as the contention of learned defence counsel regarding non-joining of independent witness is concerned, the case of the prosecution is solely rests upon the statements of official witnesses. It is a well settled principle of law that merely due to non-availability of independent corroboration, prosecution case is not to be rendered false and unbelievable, since the testimony of official witnesses is as good as the testimony of any private witness and merely due to their official status, their testimony should not be discarded, provided it stands the test of truthfulness and trustworthiness. There is no rule of Law that before acting upon the statements of official witnesses, independent corroboration must always be there. Therefore, non-joining of independent witness is not fatal to prosecution case

12 From the over all evidence led on record by the prosecution, it has been duly proved on record that on the relevant date, time and place, the accused was found driving tractor trolley overloaded with husk up to 8 feet above and 3/3 fee wide from both sides of the trolley, thereby

causing obstruction in the public way. Hence, accused is held guilty for the offence punishable under section 283 IPC and he is convicted thereunder. Let, he be taken in to custody and he be heard on the quantum of sentence.

Pronounced in Open Court:
Dated:12.06.2019

(Gurmehtab Singh), PCS
Judicial Magistrate Ist Class,
Malerkotla. UIC-PB0473

QUANTUM OF SENTENCE:

Present: Sh. Lohit Goyal, Id. APP for the State.
Convict in custody with counsel Sh. B.S. Barkatpura, Adv.

13 I have heard the learned APP for the State and convict in person. Convict submitted that he is poor man. He also submitted that he is a first time offender and is to look after his family members. He is the only bread earner of the family. He also undertook not to do any such act in future. Heard. Keeping in view the facts and circumstances of the case as well as nature of the offence and the plea taken by the convict, I am of the considered opinion that the sentence of fine would meet the ends of justice, therefore, the convict is ordered to pay fine of Rs.200/- and in default of payment of fine to undergo SI for seven days. File be consigned to the record room.

Pronounced in Open Court:
Dated:12.06.2019

(Gurmehtab Singh), PCS
Judicial Magistrate Ist Class,
Malerkotla. UIC-PB0473

Parminder JW-2