

Criminal case No. : 136  
Date of institution : 31.07.2019  
Date of Decision : 24.10.2019  
CIS No. CHI/136/2019  
CNR No.PBMNB1-000725-2019

STATE               **Versus**          Buta Singh son of Kulwant Singh, resident  
of Ranjitgarh Bandran.  
..Accused.

**FIR No. 41 dated 05.3.2019  
Under Section 229-A IPC.  
Police Station: Sardulgarh.**

Present: APP for the State.  
Accused on bail with Sh.S.S. Deol, Advocate.

Accused above named has been forwarded by SHO Police Station Sardulgarh, to stand trial for committing offence punishable under sections 229-A of IPC.

2. In nutshell, the prosecution story is that on 05-3-2019, an order passed by the Court of SDJM, Sardulgarh was received with specific direction to register the FIR against accused Buta Singh under section 229-A of IPC as in case titled as State vs. Buta Singh, FIR No.72 dated 19-5-2017, under section 61 Excise Act, P.S. Sardulgarh, he has neither appeared nor moved exemption application qua his personal appearance and his bail order was cancelled and bonds were forfeited to State and he was ordered to be summoned through non-bailable warrant of arrest. Thereafter, present case was registered against the accused and the

investigation was handed over to HC Gurjit Singh. On 17-7-2019, accused joined the investigation as per the orders of the Court. His personal search memo and arrest memo was prepared. Statements of the witnesses u/s 161 Cr.P.C. were recorded. After completion of other formalities of investigation, challan against the accused was presented in the Court.

3. On appearance of accused in the Court, copies of challan and other documents relied upon by the prosecution were supplied to him free of costs as required under Section 207 Cr.P.C.

4. Finding a *prima facie* case against the accused, charge sheet under Sections 229-A of IPC. was framed against the accused, to which, he pleaded not guilty and claimed trial.

5. In order to prove its case, prosecution examined HC Gurjit Singh, Investigating Officer as PW1, Sunil Kumar, Criminal Ahlmad as PW2 and thereafter, the evidence of the prosecution was closed by order.

6. The statement of accused under Section 313 Cr.P.C. was recorded putting to him the entire incriminating evidence, to which, accused pleaded innocence and false implication. However, he did not opt to lead any evidence in defence.

7. I have heard the arguments of learned APP for the State, learned defence counsel and have also gone through the judicial record very carefully.

8. I have considered the rival contentions raised by the learned APP for the State as well as learned defence counsel and also gone through

the case file very carefully.

9. The charge has been framed against the accused under section 229-A of IPC and prosecution with the motive to prove its case has examined **PW1 HC Gurjit Singh, Investigating Officer**, has stated that on 05-3-2018, he was posted as I.O. in police station Sardulgarh. On that day, after receiving the order dated 21-02-2019 of Hon'ble SDJM, Court Sardulgarh in case titled as State vs. Buta singh, under section 61 Excise Act, and as per the directions of Id. SDJM, Sardulgarh, FIR No.41 dated 05-3-2019, under section 229-A IPC, P.S. Sardulgarh was registered against accused Buta singh son of Kulwant singh as he has absented himself from the proceedings. The order dated 21-02-2019 is Ex.PA and FIR No.41 dated 5-3-2019, under section 229-A IPC, P.S. Sardulgarh is Ex.PB upon which he identify the signatures of ASI Ranjit Singh. After the registration of the FIR, case file was handed over to me for further investigation. On 17-7-2019, accused Buta Singh was joined in the investigation as per the orders of the Court. He enquired the accused and prepared his arrest memo Ex.PC which was attested by C. Dilraj Singh and accused put his signatures in Punjabi. The accused was released on bail as per the orders of the Id. Court. he also recorded the statement of C. Dilraj Singh. The certified copy of the order dated 21-2-2019 is Ex.PD. On 27-3-2019 he also recorded the statement of Criminal Ahlmad Jagtar Singh. Accused Buta Singh is present in the Court today.

10. **PW2 Sunil Kumar, Criminal Ahlmad**, has stated that he is

posted as Criminal Ahlmad in the Court of SDJM Sardulgarh. He has brought the summoned record of case titled as State vs. Buta Singh, FIR No.72 dated 19-5-2017 under section 61 Excise Act in which vide order dated 21-2-2019, the Court ordered SHO PS Sardulgarh to register FIR u/s 229-A IPC against accused Buta Singh, who was absent from the Court. He further proved the certified copy of the order as Ex.PD.

11. Learned APP for the State has prayed for conviction and for sentencing the accused by stating that prosecution has fully proved its case beyond reasonable doubt. He further argued that all the material documents have been proved and he prayed for conviction of accused.

12 On the other hand, learned defence counsel has argued that the prosecution has failed to prove its case beyond reasonable shadow of doubt. He further stated that the accused has not committed any crime and prayed for acquittal of the accused.

13 I have considered the contentions of the learned APP for the State and learned counsel for the accused and have also gone through the judicial file very carefully and I am of the considered opinion that the prosecution has fully proved its case beyond shadow of reasonable doubt and the accused is liable to be convicted. My this finding is based upon the following justifications:-

- 1) Section 229-A of IPC has been attracted as and when accused of any case did not turn up in the Court on the date of hearing, however, he was supposed to come in the Court on

each and every date of hearing. Hence, failure by a person released on bail or bound to appear in the Court clear cut attracts the provisions of section 229-A. After going through the file, it transpired that in case titled as State vs. Buta Singh, FIR No.72 dated 19-5-2017 under section 61 Excise Act, accused Buta had not appeared in the Court on 21-2-2019. After going through the evidence led by the prosecution, I found that Sunil Kumar, Criminal Ahlmad, while appearing in the witness box as PW2 has stated that he is posted as Criminal Ahlmad in the Court of SDJM Sardulgarh. He has brought the summoned record of case titled as State vs. Buta Singh, FIR No.72 dated 19-5-2017 under section 61 Excise Act in which vide order dated 21-2-2019, the Court ordered SHO PS Sardulgarh to register FIR u/s 229-A IPC against accused Buta Singh, who was absent from the Court. He further proved the certified copy of order dated 21-2-2019 as Ex.PD. Further, PW1 HC Gurjit Singh, Investigating Officer of the case, has deposed about the investigation part conducted by him and also about the arrest of the accused Buta Singh in the present case including all the other documents i.e. copy of order Ex.PA, FIR Ex.PB, arrest memo of accused Ex.PC and certified copy of order dated 21-2-2019 Ex.PD. Both the abovesaid witnesses have not been cross-

examined from the side of the accused, which means that the accused has admitted the case of the prosecution. Hence the ingredients of section 229-A of IPC have been fully proved by the prosecution and as such the accused is liable to be convicted.

14. So, accused Buta Singh is hereby convicted for committing an offence punishable under section 229-A IPC. Let he be heard on the point of quantum of sentence.

**Announced in open Court.**  
**Dated: 24.10.2019**

**(Harpreet Kaur)**  
**Sub Divisional Judicial Magistrate,**  
**Sardulgarh**

**QUANTUM OF SENTENCE**

Present: APP for the State.  
Convict Buta Singh in custody with counsel.

15. I have heard Learned APP for the state and convict in person on the quantum of sentence and have gone through the record very carefully. The convict has prayed for taking a lenient view that he is the only bread winner of the family.

16. Keeping in view the nature of the offence for which accused has been found guilty the convict is sentenced to pay fine of ₹ 500/- and in default of payment of fine to undergo simple imprisonment for two days, under Section 229-A IPC. Fine paid. Copy of judgment be supplied to convict free of costs. File be consigned to the Judicial Record Room.

**Announced in open Court.**  
**Dated: 24.10.2019**

**(Harpreet Kaur)**  
**Sub Divisional Judicial Magistrate,**  
**Sardulgarh (UID:PB0312)**

Naveen Kumar