

**IN THE COURT OF SHRI PANKAJ VERMA, PCS,
SUB DIVISIONAL JUDICIAL MAGISTRATE,
BUDHLADA (UID NO.PB-0314)**

Act Police Challan No.62
Date of presentation of challan:-03.11.2020
CIS No.CHI/137/2020,
CNR No. PBMNA1001657-2020
Date of Decision: 06.04.2022

State

Versus

1. Rajiv Kumar aged about 40 years son of Satpal Jindal son of Ralla Ram, resident of ward no. 16, near old telephone exchange, Budhlada.
2. Bhuvesh Singla aged about 31 years son of Surinder Kumar son of Soni Ram, resident of ward no. 13, near Janta Hospital, Budhlada.

..... Accused

FIR No: 52 Dated:12.04.2020
Under Section: 188 of IPC
Police Station: City Budhlada

Present:- Ms. Navdeep Kaur, Assistant Public Prosecutor for State.
Both accused on bail. Represented by Sh. J.K. Goyal, Advocate
(retainer lawyer).

JUDGMENT

Accused have been sent up by the officer Incharge of PS City Budhlada, to face trial under section 188 of IPC.

2. The brief facts of the prosecution case are that on 12.04.2020, SI Jaspal Singh No. 527/Mansa alongwith police party were on patrolling duty with regard to law and order duty imposed due to spread of corona virus and when the police party were present near Punjab National Bank,

**Pankaj Verma, PCS
SDJM, Budhlada
06.04.2022**

Budhlada, they saw two persons coming on foot and on inquiry, they disclosed their name as Rajiv Kumar son of Satpal and Bhuvesh Kumar son of Surinder Kumar and they were found to be present at the spot in violation of the order passed by Ld. DM, Mansa and the police party apprised them about the order No. 4481/MA dated 23.03.2020 promulgated by a public servant i.e. DM Mansa, wherein the general public were directed not to remain out of doors on any street, road, public place within the limits whole of the District Mansa from 23.03.2020 till further orders as a general lockdown was imposed throughout the country due to prevailing pandemic condition caused by Covid-19 virus and had inquired from the accused regarding having any valid pass issued by competent authority, but the accused failed to produce any valid pass in this regard and thus, they had violated the order so promulgated by the District Magistrate, Mansa, as such, the present FIR was registered against them. Rough site plan was prepared. Complaint under section 195 of Cr. P.C was also moved by Sh. Gurpal Singh Chahal, Ld. District Magistrate, Mansa, which is annexed with the challan. After completion of investigation, challan against the accused was presented in the Court.

3. On appearance, complete copies of all the documents and challan were supplied to the accused free of costs as required under section 207 of Cr.P.C.

4. Finding a prima facie case, charge under Section 188 of IPC was framed against the accused persons, to which accused pleaded not guilty and claimed trial.

5. In order to prove its case, prosecution examined **Ashok Kumar, Junior Assistant, DC office, Mansa as PW-1**, who deposed that he had brought the summoned record and proved curfew order no. 4481/MA dated 23.03.2020 as Ex PW-1/A and complaint under Section 195 of Cr.P.C as Ex PW-1/B.

6. Prosecution further examined **Retired Inspector Jaspal Singh as PW-2 (IO of this case)**, who deposed in light that of the prosecution version and supported the case of the prosecution. He further proved ruqa as PW-2/A, endorsement over ruqa as Ex PW-2/B, FIR as Ex PW-2/C, rough site plan as Ex PW-2/D, arrest memo as Ex PW-2/E and Ex PW-2/E1, personal search memo as Ex PW-2/F and Ex PW-2/F1. He identified both the accused present in the court.

7. No other witness was examined by the prosecution and Ld. APP for the State closed the prosecution evidence as all the material witnesses for the success of the prosecution case were examined and she gave up the remaining witnesses being unnecessary for the time being.

8. On closure of the prosecution evidence, all the incriminating circumstances appearing in the prosecution evidence were put to the accused in their statement under section 313 Cr.P.C to which accused pleaded that they are innocent and false case has been registered against them. Accused did not opt to lead defence.

9. On behalf of Ld. APP for the state, it was submitted that the prosecution has duly proved the charge against the accused by examining three witnesses. Ld. APP for the State further submitted that the

Investigating Officer of the present case had stepped into witness box as PW2 and had duly deposed as per the lines of the prosecution story. PW1 has proved order dated 23.03.2020 as PW1/A and complaint under Section 195 of Cr.P.C as Ex PW-1/B. The prosecution further prayed for conviction of the accused.

10. On the other hand, ld. Counsel for the accused has submitted that the accused have been falsely implicated in the present case and the prosecution has failed to prove the charge against the accused. There is no link evidence to connect the accused with the offence in question. Ld. Counsel for the accused further submitted that accordingly, no ground for conviction is made out and prayed for acquittal of the accused.

11. I have heard ld. APP for the State and ld. Defence counsel and proceed with the case file carefully.

12. Perusal of the case file reveals that in the present case charge against the accused person was framed u/s 188 of IPC. To prove the charge against the accused person, the prosecution has examined PW-2, who have categorically proved the version of the prosecution as mentioned in the challan/complaint. No prior enmity with the accused has been brought on record nor the ld. Counsel for the accused could point out any discrepancy in the statements of the prosecution witnesses. Mere fact that the witness is a police official is not a ground to discard his testimony, which is otherwise consistent in his version as put forth before this court on oath.

13. Therefore, keeping in view of my above said discussion, I am of the considered view that the prosecution has successfully discharged the

initial onus of proving the guilt of the accused beyond the shadow of reasonable doubt. Accordingly the accused stand guilty of the charge framed against them. Let the convicts be taken into custody and be heard on the quantum of sentence.

Pronounced.
06.04.2022
Kanchan, stenographer-II.

(Pankaj Verma), PCS,
Sub Divisional Judicial Magistrate,
Budhlada,
(Direct Dictation),
(UID No.PB-0314).

Pankaj Verma, PCS
SDJM, Budhlada
06.04.2022

QUESTION OF SENTENCE

Present:- Ms. Navdeep Kaur, Assistant Public Prosecutor for State.
Convicts in custody. Represented by Sh. J.K. Goyal, Advocate
(retainer lawyer)

14. Submission of learned Assistant Public Prosecutor for the State and convicts has been heard. Convicts have submitted that they are first offenders and have to feed their family and they were not aware of the order promulgated by Ld. DM, Mansa and prayed that lenient view be taken.

15. After giving a thoughtful consideration to the rival submissions and to the fact and circumstances of this case, this court deems it fit that the end of justice shall be met if the convicts are burdened with alternate sentence of fine, rather than sending them behind the bars, for the same may have the chances of exposing them to the company of hardcore criminal, which is not in the interest of justice, society and that of the convicts. Hence, the alternate sentence of fine of Rs. 1000/-each is imposed upon the convicts for having committed the offence punishable under section 188 of IPC and in default of fine, to undergo simple imprisonment for fifteen days.

16. **Fine paid by the convicts.** A copy of this judgment be provided to them free of cost. Case property be disposed off after the expiry of period of revision/appeal, if any, without awaiting for further order from this court, as per rules. File be indexed and consigned to judicial record room, Budhlada after due compliance.

Pronounced.
06.04.2022
Kanchan, stenographer-II.

(Pankaj Verma), PCS,
Sub Divisional Judicial Magistrate,
Budhlada,
(Direct Dictation),(UID No.PB-0314).

Pankaj Verma, PCS
SDJM, Budhlada
06.04.2022

