

IN THE COURT OF MS. SHIVANI GARG
JUDICIAL MAGISTRATE FIRST CLASS, LUDHIANA

FIR No. 77 dated 16.03.2018
Under Sec. 283 IPC
Police Station: Daresi, Ludhiana
Challan No: CHI/1358/2018
Date of Judgment: 04.12.2018

State

Versus

**Gurdeep Singh son of Joginder Singh R/o Harikrishan Vihar,
Rohon Road, Maherban, Ludhiana.**

.....Accused

Present: Sh. Munish Kumar APP for the State

Accused on bail

JUDGMENT

1. The accused Gurdeep Singh has been forwarded by the Officer In-charge, Police Station Daresi, Ludhiana before this Court to stand his trial for the commission of offence under section 283 of IPC, in the abovenoted case.
2. In brief, facts of the present case are that on 16.03.2018 ASI Swaran Singh alongwith the other police officials were going to Ved Mandir Chowk Daresi in connection with patrolling when they reached near Sita Mata Mandir there saw one three-wheeler bearing no. PB10FY1866 mark PIAGIO was parked in the middle of the road, which created obstruction in public way due to which the road get obstructed and general public at large was facing problems. Then investigating officer inquired from the driver then disclosed his name as Gurdeep Singh, who could not disclose any genuine reason for stopping the said vehicle in the middle of the road due to which there was a traffic jam. Therefore, appropriate action must be taken against the accused person who is responsible for the traffic jam. Seals were affixed. Accused was formally arrested. FIR was registered. Statements of the witnesses were recorded. Rough site plan was prepared. After completion of investigation, challan was presented in the Court against

the accused for his trial in accordance with law.

3. On presentation of challan, the copies of the same were supplied to the accused free of cost in compliance of section 207 Cr. P.C. against the statement of accused recorded separately.
4. Arguments on framing of notice of accusation were heard and finding sufficient *prima-facie* evidence on the basis of report under section 173 Cr. P.C. and other documents available on the file, accused was charged for the offences punishable under sections 283 IPC and a formal notice of accusation dated 21.04.2018 was served upon the accused to which the accused pleaded not guilty and claimed trial and hence the trial of the case commenced and prosecution was directed to lead evidence in order to prove charges against the accused.
5. The prosecution in order to prove the charges against the accused has examined HC Balbir Singh as PW-1, ASI Swaran Singh as PW2 (Investigating Officer) and thereafter the evidence of prosecution was closed by Id. APP for the state, by suffering separate statement.
6. Thereafter, the statement of accused under section 313 Cr.P.C was recorded in which the accused was put to entire incriminating prosecution evidence and the accused defied the same. He pleaded not to lead any defence evidence.
7. As per considered opinion of this Court following points for determination emerge out of the case for determination:-

1. Whether it was accused has drove his three wheeler bearing No. PB10FY1866 and caused obstruction in public way.

2. Whether the prosecution has been able to prove the guilt of the accused?

POINTS FOR DETERMINATION NO.1&2:-

8. Both points for determination have been taken up together for the purpose of returning the findings. The prosecution has examined ASI Swaran Singh, who is investigating officer in the present case as PW-2, who while appearing in the witness box has narrated the manner of

obstruction caused by the accused on the public way by driving his Auto. He has also proved on record ruqa Ex-P1, FIR Ex-P2, endorsement Ex-P3, recovery memo Ex-P4, photocopy of RC Ex. P5, photographs are Ex. P6 & P7, arrest-cum-intimation memo Ex-P8, personal search memo Ex-P9, rough site plan Ex.P10 and also identified the accused person present in the Court.

9. Further, prosecution has examined HC Balbir Singh, member of the police party as PW-1 who has supported the prosecution version. He has proved on record recovery memo Ex-P4, arrest-cum-intimation memo Ex-P8, personal search memo Ex-P9 and also identified the accused person present in the Court.

10.Ld. APP for the State argued that the prosecution has successfully proved its case beyond reasonable shadow of doubt and the accused deserves to be convicted and sentenced with the maximum punishment as provided under the law.

11. I have heard ld. APP for the state and scrutinized the oral and documentary evidence and after going through the entire record otherwise available on the file, I am of the considered view that it is the burdened duty of the prosecution to prove its case beyond reasonable shadow of doubt. Further, the prosecution cannot take any advantage from the weakness of the case of the defence. In this case, the prosecution has been able to prove its case beyond reasonable shadow of doubt on the basis of testimony of PW-2 ASI Swaran Singh who is investigating officer. The accused has been duly identified in the court during the trial by both these witnesses and they have categorically stated that accused has caused obstruction in public way and also endangered human being by driving his three wheeler negligently bearing number PB10FY1866. Moreover, opportunity for cross examining the prosecution witness was granted to the accused, but he failed to cross examine the witness. Hence, the entire evidence of the prosecution in totality proves the occurrence.

11. The accused has further stated that no independent witness has been joined by the prosecution and in the absence of testimony of

independent witness, the statement of official witnesses can not be relied upon. Now the question arises before this court that whether safe conviction can be placed on the sole testimony of Investigating officer and other official witness. I am of the view that quality of witness is to be considered by the court instead of quantity of evidence. The conviction can be safely based upon the sole testimony of Investigating officer as well as other official witness provided that testimony of Investigating officer and other official witness inspire confidence in the mind of the court. Moreover, I am of the view that it is not the defence of the accused that police has enmity towards him on some ground and on that ground a false case has been planted upon him. Moreover, there is no defence evidence from the side of the accused to prove any ground of defence version.

12. There is no version from the side of accused as to why accused has been falsely implicated in this case by the police of police station Daresi, Ludhiana. Moreover, there is no evidence on record to show that accused person has approached the high police authority against this alleged false implication. This court is of the view that the prosecution has successfully prove this case beyond reasonable shadow of doubt by producing cogent and convincing piece of evidence.

13. From the ocular version of PW-2 ASI Swaran Singh investigating officer it has been proved that accused was driving his Auto bearing registration number PB10FY1866 and caused obstruction in public way Hence, accused Gurdeep Singh is held guilty for the offence punishable Under Section 283 IPC and he is convicted under such offence. Let convict be heard on the quantum of sentence.

Pronounced in open court: 04.12.2018
Dated:
Steno: Charu

Shivani Garg
Judicial Magistrate First Class
Ludhiana/ UID: PB0529

QUANTUM OF SENTENCE

Present: Sh. Munish Kumar APP for the State

Accused on bail.

Heard. It is submitted by the convicts that he is first offender and lone bread earners of his family. It is also submitted that a lenient view may be taken while deciding quantum of sentence. APP for the State, on the other hand has requested to grant maximum punishment to the convict.

Hence, the convict is sentenced to pay fine of Rs. 200/- under Section 283 Indian Penal Code, 1860 and in default of payment of fine, to undergo simple imprisonment for a period of 15 days. Fine paid in court today. Copy of judgment supplied to the convict free of cost. The bail bonds of the convict is hereby discharged. Case property if any, be disposed of after the expiry of period of appeal. File be consigned to record-room after due compliance.

Pronounced in open court: 04.12.2018

Dated:

Steno: Charu

**Shivani Garg
Judicial Magistrate First Class
Ludhiana/ UID: PB0529**

State v. Gurdeep Singh.

State Vs Gurdeep Singh (CHI-1358-2018)

Present: Sh. Munish Kumar APP for the State

Accused on bail

Vide separate detailed judgment of even date, the accused person is convicted and has been sentenced to pay fine of Rs. 200/-. Fine paid in court today. The bail bonds of the accused Gurdeep Singh stand discharged. Case property be disposed of as per rules after the expiry of the period of appeal. File be consigned to the record room after due compliance.

Pronounced in open court: 04.12.2018

Dated:

Steno: Charu

**Shivani Garg
Judicial Magistrate First Class
Ludhiana/ UID: PB0529**