

IN THE COURT OF MS. ROOPA DHALIWAL, PCS,
SUB DIVISIONAL JUDICIAL MAGISTRATE, MALERKOTLA
(UID No. PB0350)

Challan No.1017 of 11/4/2023
CNR. No. PBSGC1-001019-2023
Registration No.CHI/133/2023
Decided on.....11/4/2023

State

Versus

Mohd. Riaz son of Mohd. Ishtiaq, resident of Idgah Road, Safi Basti,
Malerkotla, at present residing at village Dhadewara, PS Sandaur

.....Accused

FIR No.40 dated 8/2/2022
U/S. 188 IPC & 51 of the Disaster Management Act, 2005
Police Station: City I, Malerkotla.

Present: Ms.Ravinder Pal Kaur, Id. APP for the State.
Accused in person with counsel.

JUDGMENT:-

The above said accused has been sent up by the Station House Officer of Police Station City I, Malerkotla to face trial for the commission of an offence punishable under Section 188 IPC & 51 of Disaster Management Act, 2005 in the above noted FIR.

2. Briefly put, the facts of the present case are that on 8/2/2022 IO HC Harjit Singh alongwith police party were present at Truck Union Malerkotla in connection with patrolling regarding duty of Corona Virus Lockdown(Curfew) on private vehicle alongwith laptop and printer. It was

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about 10:45 PM, one person was seen coming from the side of Thandi Sadak, Malerkotla. On seeing the police party, he became perplexed and tried to turn to his backside. IO apprehended him with the help of police party and on asking he disclosed his name as Mohd. Riaz. The accused violated the order no.111/MA dated 16/1/2022 of DM, Sangrur. Ruqa was sent to the police station for registration of FIR on the basis of which FIR was registered. Site plan was prepared. Accused was arrested. Personal search memo of accused was prepared. On completion of investigation, challan was presented against the accused.

3. On appearance of the accused in the Court, copies of all the documents sent along with the report and relied upon by the prosecution, were supplied to him as per mandatory requirement of section 207 Cr.P.C.

4. From the perusal of those documents and after hearing learned A.P.P. for the State and the accused, sufficient grounds were found for initiating trial against the accused, punishable under section 188 of Indian Penal Code and 51 of The Disaster Management Act, 2005, and the charge was framed against the accused accordingly, to which the accused pleaded not guilty and claimed trial.

5. In order to prove its case, the prosecution has examined HC Harjit Singh as PW1 and thereafter ld. APP has closed the prosecution evidence.

6. Statement of accused U/s. 313 of Cr.P.C. has been recorded without oath wherein all the incriminating evidence appearing against the

accused has been put to him in question answer form and he confessed his guilt. Accused did not opt to lead defence evidence.

7. PW1 HC Harjit Singh who is IO of present case while appearing in the witness box deposed on the same lines as that of prosecution story and proved on record ruqa as Ex.PA, FIR as Ex.PB, endorsement of FIR as Ex.PC, site plan as Ex.PD, arrest memo of accused as Ex.PE and personal search memo of accused as Ex.PF and orders of DM, Sangrur as Ex.PG and complaint under Section 195 Cr.PC as Ex.PH. Effective opportunity was given to learned counsel for accused, but he did not cross examine the witness for the reasons best known to him and as such, cross-examination of this witness was treated as NIL.

8. The learned APP for the state argued that the prosecution has examined PW-1 HC Harjit Singh who has fully supported and proved the version of the prosecution. It was further argued that specific role was assigned to accused and in light of the fact that there is no motive to falsely implicate accused person, accused person may be convicted and punished under law. On the other hand, Ld. Defence counsel has argued that he is absolutely innocent person and has been falsely implicated in this case. It was then contended that the prosecution has not examined any independent witness in this case and non examination of any independent witness by the prosecution has given death knell to the case of the prosecution. It was further argued that no such case for the offence with

which accused present in the court has been charged can be said to have been proved against him beyond any reasonable shadow of doubt and as such, the accused is entitled to be acquitted from the charge framed against him.

9. I have heard the learned APP for the state and the learned defence counsel and have perused the case file carefully.

10. The case of the prosecution is that on 8/2/2022, accused was found roaming outside of his house and violated the order no.111/MA dated 16/1/2022 passed by Id. DM, Sangrur. In order to prove its case, the prosecution has examined PW1 HC Harjit Singh.

11. From the appreciation of the testimony of the said witness, it transpires that the prosecution has been able to prove its case against the accused beyond a shadow of reasonable doubt and have proved that the accused, present in the court, has violated the order no.111/MA dated 16/1/2022 passed by DM, Malerkotla. No discrepancy has been pointed out in the statement of PW1 and record available on file. The ingredients of offence committed by the accused as such are proved beyond a shadow of reasonable doubt.

12. I have considered the contentions of learned defence counsel about the fact that no independent witness was joined, but I do not find any substance in his contention because the prosecution is master of its own case. It is not necessary to examine independent witnesses if the case of the prosecution is otherwise proved from the testimony of PWs. The

testimony of the police officials cannot be discarded merely because of the colour of their office. However, if the case of prosecution is based only upon the statement of police official witnesses, it is for the court to scrutinize their testimonies with more care and caution. Our own Hon'ble High Court in case Karnail Singh Versus The State of Punjab reported in 2008(3) RCR (Criminal) page 395 has held that on mere non-joining of independent witnesses, when the evidence of the prosecution witnesses, has been held to be cogent, convincing, credit worthy and reliable and there was no reason, on their part, to falsely implicate the accused, no doubt is cast on the prosecution story. Keeping this analogy in mind, when the testimony of the above said witness is scrutinized, then, it is found that the accused has violated the order passed by the DM, Sangrur and there is no reason as to why reliance should not be placed on the prosecution witnesses, who are truthful and believable witnesses.

13. It was further argued that the accused has been falsely implicated in this case. However, the accused has failed to prove any kind of ill will or enmity on the part of prosecution witnesses, due to which, they are deposing against him. As such, the motive to falsely implicate the accused in this case is not proved.

14. In view of aforesaid discussion, I am of the considered view that the prosecution has fully established the guilt of the accused present in the court for the offence punishable under Section 188 of Indian Penal

Code and Section 51 of Disaster Management Act, 2005 and convicted thereunder. Let he be heard on the quantum of sentence.

Announced in open court:-
Dated: 11/4/2023

(Roopa Dhaliwal), PCS,
Sub Divisional Judicial Magistrate,
Malerkotla. UID-PB0350

Shavinder Kumar
Stenographer Gr.-II

QUANTUM OF SENTENCE.

Present: Ld. APP for the State.
Convict in person with counsel

Heard the convict on the quantum of sentence. Convict has prayed for leniency submitting that he is first offender. He is a poor person and is the only bread earner in the family and he will not repeat this crime or any other offence in future.

On the other hand, ld. APP for the State argued that convict should be severally punished so that the punishment awarded to the convict acts as a deterrent to the like minded people.

Considering the nature of offence, circumstances and antecedents of convict, the convict is sentenced to pay fine of Rs.100/- U/s.188 IPC and to pay fine of Rs.500/- U/s. 51 of Disaster Management Act, 2005 and in default of payment of fine to undergo rigorous imprisonment for seven days. Fine paid. The case property, if any, be dealt as per law, after the expiry of period of appeal or revision, if any. File be consigned to the record room, Malerkotla.

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State Vs. Mohd. Riaz

Present: Ms.Ravinderpal Kaur, ld. APP for the State.
Accused in person with counsel

Challan presented today. Report of Ahlmad perused. It be registered. Copies of challan supplied to the accused free of costs and his statement recorded to this effect. Accused appeared before the Court and prayed for bail. In view of nature of offences, the accused is ordered to be released on bail on furnishing bail bonds in the sum of Rs.25,000/- with one surety in the like amount. Accused is not ready with the surety. On his request, personal bonds furnished by him are accepted and attested. Heard on charge. On finding a prima facie under Section 188 IPC and Section 51 of Disaster of Management Act, charge framed against the accused to which accused pleaded not guilty and claimed trial.

PW1 HC Harjit Singh is present and examined. Ld. APP has closed the prosecution evidence by making separate statement. Statement of accused under Section 313 Cr.P.C. recorded. Accused did not opt to lead defence evidence.

Arguments heard. Vide my separate detailed judgment of even date, accused has been convicted and ordered to pay fine, as stated therein. Fine paid. Case property, if any, be disposed off as per rules after expiry of period of appeal or revision. Sureties of accused also stands discharged. File be consigned to the judicial Record Room, Malerkotla, after due compliance.

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