

IN THE COURT OF KARANVIR SINGH MAJU, PCS, JUDICIAL
MAGISTRATE IST CLASS, JALANDHAR (UID No.PB00423)

PBJL030088622020



CIS Case No.	CHI-1249-2020
CNR No.	PBJL03-008862-2020
Date of Instt.	25.06.2020
Date of Decision	12.04.2023

State	Vs	1. Kuldeep Singh @ Deepu son of Jarnail Singh, resident of House No.10, Chak Jinda, P.S Division No.1, Jalandhar.
		2. Sarwan Singh @ Soni son of Gurdev Singh, resident of Lakhn Khurd, P.S Sadar District Kapurthala.

.....Accused.

FIR No. 119 dated 04.06.2020
Under Section 188 IPC, 51-B of
Disaster Management Act, 2005
P.S. Kartarpur, Jalandhar

Present: Ms. Anu Nagra, Ld. A.P.P for the State.
 Both accused on bail with counsel Sh. Gurbaksh Singh,
 Advocate.

JUDGMENT:

1. The present challan has been presented by the SHO of Police Station Kartarpur, Jalandhar against the accused for having committed the offence punishable under section 188 of Indian Penal Code and 51-B of Disaster Management Act, 2005.
2. Prosecution story in brief is that on 04.06.2020 ASI Balwinder Singh along with other police officials was on patrolling duty in search of bad elements as orders were passed by District Magistrate, Jalandhar pertaining to Corona Virus and was present at Bus Stop,

Kartapur, then two persons on motorcycle bearing No. PB-08-C-8356 marka Splendor were seen coming from the side of Railway Crossing, Kapurthala Road during curfew. Thereafter, ASI with the help of other police officials apprehended the said persons and asked about their whereabouts. On which, the said persons disclosed their names as Kuldeep Singh @ Deepu and Sarwan Singh @ soni. On asking, the said persons could not produce any permit for roaming outside during curfew. Thereafter, they were arrested for disobeying the orders passed by District Magistrate bearing No.23414-64 dated 23.03.2020. Thereafter, motorcycle bearing No.PB-08-C-8356 was taken into police possession vide separate memo. Thereafter, rough site plan, arrest memos and personal search memos were prepared. After completion of investigation, challan against the accused was presented in the court.

3. On presentation of the final report, copies of the documents as required U/s 207 of the Code of Criminal Procedure were supplied to the accused.

4. From report U/s 173 (2) of the Code of Criminal Procedure and documents annexed therewith, a *prima facie* offence punishable U/s 188 of IPC and 51-B of Disaster Management Act were found to be made out against the accused accordingly, to which accused pleaded not guilty and claimed trial.

5. Thereafter the case was fixed for prosecution evidence. In order to prove its case the prosecution has examined ASI Balwinder Singh as PW-1 and Arun as PW-2. Thereafter, evidence of the prosecution was closed.

6. Statements of the accused under Section 313 Cr.P.C were recorded wherein all the incriminating circumstances appearing against the accused persons was put to the accused. Accused denied all the allegations levelled against them and pleaded false implication in this case. No evidence in defence was led by the accused and they have closed their defence evidence vide got recorded their separate statement.

7. I have heard the learned APP for the State and accused and have gone through the case file very minutely.

8. The learned APP for the State argued that the prosecution has duly proved its case beyond the shadow of reasonable doubt by examining prosecution witnesses. Hence, the accused be convicted as per law.

9. On the other hand, learned counsel for the accused argued that accused have been falsely implicated in the present case. Lastly, he prayed that accused may kindly be acquitted from the charges leveled against them.

10. In order to bring home the guilt of the accused the prosecution has examined ASI Balwinder Singh, Investigating Officer of the present case as PW-1 and he deposed on the same lines of prosecution version and proved on record steps of investigation i.e. ruqa as Ex.P1, FIR as Ex.P2, endorsement as Ex.P3, arrest-cum-intimation memos of accused as Ex.P4 and Ex.P5, personal search memos of accused as Ex.P6 and Ex.P7, rough site plan as Ex.P8, curfew order passed by Deputy Commissioner, Jalandhar as Ex.P9, recovery memo of motorcycle as Ex.P10 and complaint under Section 195 Cr.P.C. as Ex.P11.

11. PW-2 Arun, Clerk, DC Office, Jalandhar brought the original

record pertaining to order No.3062-85/MC-4MA dated 23.3.2020 passed by worthy Deputy Commissioner, Jalandhar with regard to the Covid-19 pandemic and proved the same as Ex.P9. He also identify the signatures of Sh.Varinder Kumar Sharma, IAS, DM, Jalandhar at point-A.

12. No evidence in defence was led by the accused and they have closed their defence evidence vide got recorded their separate statement.

13. After hearing the contentions of learned APP for the State as well as learned defence counsel, this court is of the opinion that in order to prove their case, the prosecution has examined ASI Balwinder Singh, Investigating Officer of the present case as PW-1 and he deposed on the same lines of prosecution version and proved on record steps of investigation i.e. ruqa as Ex.P1, FIR as Ex.P2, endorsement as Ex.P3, arrest-cum-intimation memos of accused as Ex.P4 and Ex.P5, personal search memos of accused as Ex.P6 and Ex.P7, rough site plan as Ex.P8, curfew order passed by Deputy Commissioner, Jalandhar as Ex.P9, recovery memo of motorcycle as Ex.P10 and complaint under Section 195 Cr.P.C. as Ex.P11. Prosecution further examined Arun, Clerk, DC Office, Jalandhar as PW-2 and he brought the original record pertaining to order No.3062-85/MC-4MA dated 23.3.2020 passed by worthy Deputy Commissioner, Jalandhar with regard to the Covid-19 pandemic and proved the same as Ex.P9. He also identify the signatures of Sh.Varinder Kumar Sharma, IAS, DM, Jalandhar at point-A. It is important to note that the learned defence counsel has cross-examined to PW-1 and PW-2 but nothing in favour of the accused has come out from the mouth of PW-1 and PW-2 in their cross examinations. The prosecution has duly proved

their version and police proceedings against the accused. It was argued that no independent witness was examined. It is well settled law that when the evidence of prosecution witnesses treated as trustworthy then the plea of independent witness is not tenable. Moreover, the accused have not examined any defence witness to rebut the validity of the orders as well as its implementation.

14. In view of the above discussion, the prosecution has duly proved its case against the accused beyond the shadow of reasonable doubt. Accordingly, the accused namely Kuldeep Singh @ Deepu and Sarwan Singh @ Soni are hereby convicted under Section 188 of IPC & 51-B of Disaster Management Act and let they be heard on the quantum of sentence.

Pronounced in the open court
on 12.04.2023

(Karanvir Singh Maju), PCS
Judicial Magistrate Ist Class,
Jalandhar/UID:PB00423

QUANTUM OF SENTENCE

Present: Ms. Anu Nagra, Ld. APP for the state.
Accused/convicts in person.

I have heard the accused on the matter of sentence and have taken into consideration the submissions made by them, I am of the view that they are first offender and are in young age. Therefore, if an opportunity be given to them, they are likely to reform themselves. As such, I find this case fit to give them the benefit of probation. They are ordered to be released on probation under section 4(1) of the Probation of Offenders Act for three months on their entering in the personal bonds in the sum of Rs.10,000/- each on undertaking to keep peace and be of good behaviour during this period and to receive the substantive sentence on their violating these conditions. They are also ordered to pay Rs.400/- each as cost of litigation, which has been paid. The personal probation bonds furnished by the accused, which are accepted and attested. Case property be destroyed after the expiry of period of appeal or revision, as per rules. File be consigned to the record room.

Note : Certified that this Judgment has been directly dictated by the undersigned on the computer.

Pronounced in the open court
on 12.04.2023

Himanshu

(Karanvir Singh Maju), PCS
Judicial Magistrate Ist Class,
Jalandhar/UID:PB00423