

**In the Court of Ms. Vishavjyoti Judicial Magistrate First Class
Tarn Taran.**

Case No: 34/19.05.2018

02.07.2018

CNR No.: PBTT03-001259-2018

Date of Institution:19.05.2018

CIS/ CHI No :123/2018,

Date of decision:15.10.2019

STATE

Versus

1. Sohan Singh S/o Bhajan Singh, R/O Lohar Police Station Chohla Sahib District Tarn Taran
2. Rajwinder kaur w/o Nachattar Singh @ Tota, R/O Lohar Police Station Chohla Sahib District Tarn Taran

FIR No:20/22.02.2018

Under Section: 174-A

Police Station: Chohla Sahib

Present: Sh. Satinderjit Singh Gill APP for the State.
Accused Sohan Singh and Rajwinder Kaur on bail with their counsel.

J U D G M E N T.

1. The above named accused has been sent by the SI/SHO of Police Station Chohla Sahib for facing trial under Section 174-A of IPC.

2. Prosecution version is that on 22.02.2018, ASI Prem Singh along with other police officials was present at Bus stand, Dera Sahib, in connection with patrolling and search of bad elements where ASI Prem Singh had received an information that Sohan Singh S/o Bhajan Singh and Rajwinder Kaur W/o Nachattar Singh, both R/o of Lohar absented themselves from the Court of Ms. Parvinder Kaur the then Learned JMIC, Tarn Taran, in case FIR No. 38/15 , registered 307/333/353/186/ 224/225/ 506/148/149 IPC, at Police Station Chohla Sahib and has been declared Proclaimed Offender by the said court and that they are seen at their village Lohar and if the raid is conducted they can be apprehended. On the basis of the said information , investigation was carried out. Ruqa was prepared and FIR under the aforesaid Section was got registered. Accused

persons were arrested. Investigation was completed and challan was presented

3. On appearance of the accused in the court, he was supplied with copies of challan and documents relied upon by the prosecution, as required under Section 207 of Cr.P.C.

4. A *prima facie* case having been made out against the accused, charge under Section 174-A IPC was framed against the accused to which he pleaded not guilty and claimed trial.

5. In order to prove their case, prosecution has examined following witnesses:-

1. ASI Prem Singh no. 210/TT
2. HC Nirmal Singh no.140/TT
3. LC Arwinder Kaur no.1463/TT
4. Kuldeep Singh, Criminal Ahlmad in the court of Ms. Amandeep Kaur, ACJM, Tarn Taran
5. Gursahib Singh, Ahlmad, in the court of Ms. Paramjit Kaur AD&SJ, Tarn Taran.

In support of its case, the prosecution has examined PW-1 ASI Prem Singh, Investigating Officer, who had deposed that on 22.02.2018, he was posted as I/c ASI at P.P. Dera Sahib. On that day, he alongwith other police official were present at Bus Stand, Dera Sahib in connection of petrolling and in search of bad elements. Where he received a secret informed that Sohan Singh S/o Bhajan Singh, and Rajwinder Kaur W/o Nachattar Singh, both r/o Lohar who had been declared P.O. in FIR no 38/2015, U/s 307 IPC etc. in the Court of Ms. Palwinder Kaur, JMJC, TT, are present and seen at their Village Lohar and raid be conducted, they can be apprehended. Then, he alongwith other police official reached at house of accused at Village Lohar. He tried to join the witnesses but nobody was ready to join the police party. Then he raided in the house of accused and reached at main gate of house and on seeing us Hindu Gentelman try to fled away and he apprehended the accused with help of other police official. On enquiry he disclosed his name as Sohan Singh S/o Harbhajan Singh, R/o Village Lohar and at residential house a lady was present and L/C Arvinder Kaur enquired her name, she disclosed

her name as Rajwinder Kaur W/o Nachattar Singh, R/o Lohar and on being asked about Fir no 38 Fir no 38/2015, they disclosed that they have been declared as P.O. by the Court of Ms. Parvinder Kaur, JMIC, TT on dated 02.02.2016. They disclosed that they did not reside at Village Lohar and today i.e. 22.02.2018 they came at Village Lohar. Then, he arrested both the accused and got registered a case U/s 174-A against them. He send ruqa through Const. Sandeep Singh 286/TT for registration of FIR. Ruqa is Ex. PW1/A , on the basis of which FIR PW1/B was registered by ASI Charanjit Singh. He arrested both the accused vide arrest and intimation memo Ex. PW1/C & PW1/D, personal search of both accused is Ex. PW1/E and PW1/F. Above said memo were witness by HC Rajpal Singh, HC Nirmal Singh and HC Arvinder Kaur. he recorded the statement of witnesses. He identified both the accused present in the Court today.

6. PW-2 HC Nirmal Singh has deposed that in the year 2015-2016 he was posted at PP Dera Sahib on warrant of arrest of Sohan Singh s/o Bhajan Singh and Rajwinder Kaur W/o Nachattara Singh issued by the court of Ms. Parvinder Kaur JMIC, Tarn Taran of FIR no. 38/2015 under section 307 IPC etc, PS Chohla Sahib were handed over to him alongwith the proclamation on 31.12.2015 he pasted one copy of the publication out side the court and one copy was pasted out side the house of the accused and in the common places in village assessable to all and the accused was not traced their house. He effected the proclamation and thereafter also made statement in court in this regard. Later on accused did not appeared in court and were declared PO.

On 22.08.2018, he was posted as HC at PP Dera Sahib. On that day, he alongwith other police official were present in the police party of ASI Prem Singh at Bus Stand, Dera Sahib in connection of petrolling and in search of bad elements. Where IO received a secret information that Sohan Singh S/o Bhajan Singh, and Rajwinder Kaur W/o Nachattar Singh, both r/o Lohar who had been declared P.O. in FIR no 38/2015, U/s 307 IPC etc. in the Court of Ms. Palwinder Kaur, JMIC, TT, are present and seen at their Village Lohar and raid be conducted, they can be apprehended. Then, they alongwith other police official and IO reached at

house of accused at Village Lohar. IO tried to join the witnesses but nobody was ready to join the police party. Then IO raided in the house of accused and reached at main gate of house and on seeing us Hindu Gentelman try to fled away and IO apprehended the accused with their help. On enquiry he disclosed his name as Sohan Singh S/o Harbhajan Singh, R/o Village Lohar and at residential house a lady was present and L/C Arvinder Kaur enquired her name, she disclosed her name as Rajwinder Kaur W/o Nachattar Singh, R/o Lohar and on being IO in case FIR No.38/2015 IO arrested both the accused vide arrest and intimation memo Ex.PW1/C & PW1/D, personal search of both accused is Ex. PW1/E and PW1/F was conducted. Memo Ex. PW1/C and Ex. PW1/F were witnesses by him and HC Rajpal Singh and memo PW1/D and Ex. PW1/E were witnesses by LC Arvinder Kaur. His statement was recorded. He identified both the accused present in the court today.

07. In the present case, PW3 LC Arwinder kaur No.1463 who has deposed that On 22.02.2018, she was posted at PS Chohla Sahib. On that day, she alongwith other police official were present in the police party of ASI Prem Singh at Bus Stand, Dera Sahib in connection of petrolling and in search of bad elements. Where IO received information that Sohan Singh S/o Bhajan Singh, and Rajwinder Kaur W/o Nachattar Singh, both r/o Lohar who had been declared P.O. in FIR no 38/2015, U/s 307 IPC etc. in the Court of Ms. Palwinder Kaur, JMIC, TT, are present and seen at their Village Lohar and raid be conducted, they can be apprehended. Then, they alongwith other police official and IO reached at house of accused at Village Lohar. IO tried to join the witnesses but nobody was ready to join the police party. Then IO raided the house of accused and reached at main gate of house and on seeing us Hindu Gentelman try to fled away and IO apprehended the accused with their help. On enquiry he disclosed his name as Sohan Singh S/o Harbhajan Singh, R/o Village Lohar and at residential house a lady was present and she enquired her name, she disclosed her name as Rajwinder Kaur W/o Nachattar Singh, R/o Lohar and being PO in case FIR no.38/2015 IO arrested both the accused vide arrest and intimation memo Ex. PW1/C & PW1/D, personal search of both accused is Ex. PW1/E and PW1/F was

conducted. Memo PW1/D and Ex.PW1/E were witnesses by her. Her statement was recorded. She identified both the accused present in the Court today.

08. Then, criminal Ahlmad Kuldeep Singh, examined as PW4 who deposed that during the period of May, 2015 to 2016 he has worked as criminal Ahlmad in the court of Ms. Parvinder Kaur (the then JMIC, Tarn Taran). The accused Sohan Singh and Rajwinder Kaur were declared as PO in the case NO.38/15 under section 307/333/355/186/224/225/506/148/149 IPC PS Chohla Sahib. He identified this signature of Ms. Parvinder Kaur (the then JMIC, Tarn Taran) on Ex. PW4/A and Ex. PW4/B.

09. Then, Gursahib Singh Ahlmad, examined as PW5 who deposed that he was posted as criminal Ahlmad in the court of Ms. Paramjit Kaur, AD&SJ, Tarn Tara. He has brought the original file titled as State vs. Nachattar Singh & ors. Bearing FIR NO.38/ 28.04.2015 under section 307/323/353/186/224/225 506/148/149 IPC PS Chohla Sahib, pending in the court of Ms. Paramjit Kaur, AD&SJ, Tarn Taran for 14.11.2018. He has seen the FIR no. 38/ 28.04.2015 in the original file the attested photocopy of which is Ex. PW5/A which is true and correct as per original.

10. Thereafter, learned APP for the State closed the prosecution evidence vide his separate statement recorded on dated 20.12.2018.

11. After the closure of prosecution evidence, Statement of accused under Section 313 Cr.P.C. was recorded in which all the incriminating evidence adduced and proved against the accused was put across to him. He denied all the allegations levelled against him and pleaded false implication in this case.

12. On the other hand accused examined Manjit Singh Ex. Sarpanch as DW1 who deposed that the police of P.S Chohla Sahib has falsely declared Sohan Singh Son of Bhajan Singh and Rajwinder Kaur wife of Nachhatar Singh R/o his village Luhar as PO. They never left the village and remained present in his house situated in the village Luhar.

Rathar Nachhatar Singh along with his mother Nirvail Kaur got injured due to fire shots given by the police on vital part of their bodies.

13. Then, Lakhbir Singh Ex-Sarpanch examined as DW2 who deposed that the police of P.S Chohla Sahib has falsely declared Sohan Singh Son of Bhajan Singh and Rajwinder Kaur wife of Nachhatar Singh R/o village Luhar as PO. They never left the village and remained present in their house situated in the village Luhar. Rathar Nachhatar Singh along with his mother Nirvail Kaur got injured due to fire shots given by the police on vital part of their bodies.

14. In the present case Kashmir Singh Chowkidar examined as DW3 who deposed that the police of P.S Chohla Sahib has falsely declared Sohan Singh Son of Bhajan Singh and Rajwinder Kaur wife of Nachhatar Singh R/o village Luhar as PO. They never left the village and remained present in their house situated in the village Luhar. Rathar Nachhatar Singh along with his mother Nirvail Kaur got injured due to fire shots given by the police on vital part of their bodies.

15. In the present case Nirvail Kaur examined as DW4 who deposed that she is resident of village Lohar and married with Bhajan Singh. She is having two sons namely Nacahttar Singh and Sohan Singhs. Both are married. One daughter namely Inder Kaur, who is married with sukhdev Singh at village Fatehabad. Her both sons and husband are working as daily wages in the village. Police officials on 28.4.2015 who raided our house without any reason and cause and they used filthy language against her sons and her daughter in law. Her daughter in law Rajwinder Kur wife of Nachattar Singh and Lakhwinder Kaur wife of Sohan Singh and also tried to Molestate minor Baljit Kaur d/o Nachattar Singh. When her family members objected against the wrong doing of the police officials they openly threatened to falsely implicate her sons and whole family in a false case as they were having a vast power and when they forcibly tried to took away her daughter in laws Lakhwinder Kaur and Rajwinder Kaur and minor grand daughter Baljit Kaur, male member of her family came in between and tried to save their females from the jaws of police officials, they fired on her and Nachattar Singh openly which hit on her breast and bullet on the lower part of the stomach hit to her son Nachattar Singh and on this when the people surrounded by their

house got together and police officials ran away from the spot. she and her son was medically examined and detailed medical record is attached herewith which is EX D4/A. Just to counter attack police officials registered a false case vide FIR no. 38 of 28.4.2015 by inflicting self injuries to themselves and without any inquiry and any wastage of time within few hours police officials registered the abovesaid FIR under section 307/332/ 353/186/225/224/506/148/149 IPC against all the family members including male, females and minor children, at police station Chohla Sahib, but till today, police officials has not registered our version nor any action was taken against anybody till today by the police officials. she and her son Nachattar Singh moved petitions before the Hon'ble High Court at Chandigarh, where police officials appeared but no satisfactory reply was ever filed by the police officials in the Hon'ble High Court, which are still pending. She and her family never left village Lohar from the day of occurrence till today, nor police officials arrested her and her family in the abovesaid FIR no. 33 of 2015 as we were regularly requesting the officials as well as Hon'ble High Court vide various petitions and then in the year 2018 police officials just in order to put pressure on us had created frivolous report and by misleading the learned court of Ilqa Magistrate has wrongly declared PO vide order dt. 2.2.2016 but even then as we never left their village Lohar, they falsely procuring the reports. They declared her and all the other family members PO in the said case wrongly as during that period they were regularly appearing before the police officials as well as in the Hon'ble High Court which is crystal appear from the orders which are submitted herewith are EX D4/B to EX D4/J .The police officials has wrongly declared PO to her and her whole family just in order to put pressure on her and her family.

16. Then, Sohan Singh examined as DW5 who deposed that he is resident of village Lohar and Bhajan Singh is his father. They are two brothers namely Nacahttar Singh and himself. They both are married and having one sister namely Inder Kaur, who is married with Sukhdev Singh at village Fatehabad. They all the male family members are working as daily wages in the village. Police officials on 28.4.2015 who raided their house without any reason and cause and they used filthy language against us specially against his wife, his sister in law and his niece. Police

officials tried to tease and drag his sister in law Rajwinder Kaur wife of Nachattar Singh and his wife Lakhwinder Kaur and also tried to Molestate minor Baljit Kaur d/o Nachattar Singh his niece. When his family members objected against the wrong doing of the police officials they openly threatened to falsely implicate all the male members of the family alongwith whole family in a false case as they were having a vast power and when they forcibly tried to took away females of their family i.e. Lakhwinder Kaur and Rajwinder Kaur and his niece Baljit Kaur. He and other male member of his family came in between and tried to save their females from the jaws of police officials, they fired on his mother Nirvail Kaur and his brother Nachattar Singh openly which hit on the breast of his mother Nirvail Kaur and one bullet hit on the lower part of the stomach of his brother Nachattar Singh and on this when the people surrounded by their house got together and police officials ran away from the spot. He got admitted his mother and brother to hospital who were medically examined and detailed medical record is attached herewith which is EX D4/A. Just to counter attack police officials registered a false case vide FIR no. 38 of 28.4.2015 by inflicting self injuries to themselves and without any inquiry and any wastage of time within few hours police officials registered the abovesaid FIR under section 307/332/353/186/225/224/506/148/149 IPC against all the family members including male, females and minor children, at police station Chohla Sahib, but till today, police officials has not registered their version nor any action was taken against anybody till today by the police officials. His brother Nachattar Singh and his mother Nirvail Kaur has moved petitions before the Hon'ble High Court at Chandigarh, where police officials appeared but no satisfactory reply was ever filed by the police officials in the Hon'ble High Court, which are still pending. he and my his family never left village Lohar from the day of occurrence till today, nor police officials arrested him and his family in the abovesaid FIR no. 33 of 2015 as they were regularly requesting the officials as well as Hon'ble High Court vide various petitions and then in the year 2018 police officials just in order to put pressure on us had created frivolous report and by misleading the learned court of Ilaqa Magistrate has wrongly declared PO vide order dt. 2.2.2016 but even then as they never left their village Lohar,

they falsely procuring the reports. They declared him and all the other family members PO in the said case wrongly as during that period they were regularly appearing before the police officials as well as in the Hon'ble High Court which is crystal appear from the orders which are submitted herewith are EX D4/B to EX D4/J. The police officials has wrongly declared PO to him and his whole family just in order to put pressure on him and his family

17. In the present case Nachattar Singh examined as DW6 who deposed that he is resident of village Lohar and Bhajan Singh is his father. They are two brothers namely Sohan Singh and himself. They both are married and having one sister namely Inder Kaur, who is married with Sukhdev Singh at village Fatehabad. They all the male family members are working as daily wages in the village. Police officials on 28.4.2015 who raided their house without any reason and cause and they used filthy language against us specially against his wife, his sister in law and his daughter namely Baljit Kaur. Police officials tried to tease and drag his wife Rajwinder Kaur and his sister in law Lakhwinder Kaur and also tried to Molestate minor Baljit Kaur his daughter. When his family members objected against the wrong doing of the police officials they openly threatened to falsely implicate all the male members of the family alongwith whole family in a false case as they were having a vast power and when they forcibly tried to took away females of their family i.e. Lakhwinder Kaur and Rajwinder Kaur and his minor daughter Baljit Kaur. He and other male member of his family came in between and tried to save their females from the jaws of police officials, they fired on his mother Nirvail Kaur and himself openly which hit on the breast of his mother Nirvail Kaur and one bullet hit on the lower part of the his stomach and on this when the people surrounded by our house got together and police officials ran away from the spot. My brother Sohan Singh got admitted his mother and himself to hospital who were medically examined and detailed medical record is attached herewith which is EX D4/A. Just to counter attack police officials registered a false case vide FIR no. 38 of 28.4.2015 by inflicting self injuries to themselves and without any inquiry and any wastage of time within few hours police officials registered the abovesaid FIR under section 307/332/

353/186/225/224/506/148/149 IPC against all the family members including male, females and minor children, at police station Chohla Sahib, but till today, police officials has not registered our version nor any action was taken against anybody till today by the police officials. He and his mother Nirvail Kaur has moved petitions before the Hon'ble High Court at Chandigarh, where police officials appeared but no satisfactory reply was ever filed by the police officials in the Hon'ble High Court, which are still pending. He and his family never left village Lohar from the day of occurrence till today, nor police officials arrested him and his family in the abovesaid FIR no. 33 of 2015 as they were regularly requesting the officials as well as Hon'ble High Court vide various petitions and then in the year 2018 police officials just in order to put pressure on them had created frivolous report and by misleading the learned court of Ilaqa Magistrate has wrongly declared PO vide order dt. 2.2.2016 but even then as we never left our village Lohar, they falsely procuring the reports. They declared him and all the other family members PO in the said case wrongly as during that period we were regularly appearing before the police officials as well as in the Hon'ble High Court which is crystal appear from the orders which are submitted herewith are EX D4/B to EX D4/J .The police officials has wrongly declared PO to him and his whole family just in order to put pressure on him and his family.

18. The following point arose for determination in this case:-

“Whether on 02.02.2016, accused did not intentionally appear in the Court of Ms. Parvinder Kaur, the then JMIC Tarn Taran in case FIR No. 38 dated 28.04.2015, under Sections 307/333/ 353/186/225/224/506/148/149 IPC, Police Station Chohla Sahib inspite of issuance of proclamation and as such, has committed the offence punishable under Section 174-A IPC?”

19. I have heard the submissions made by the learned APP for the State, learned defence counsel and have also gone through the record of the judicial file carefully. My findings on the aforesaid point are as under:-

20. In this case, the charge against the accused persons have been framed under Section 174-A IPC for having failed to appear in the Court subsequent upon the proclamation being issued against him under Section 82 (4) Cr.P.C. Therefore, prosecution was required to prove the question that accused was required to attend the Court, that he failed to appear before the Court, that proclamation was issued against him, that he failed to appear before the Court despite issuance of proclamation and lastly, that he has been apprehended subsequent upon the information being issued to the SHO concerned. On the other hand, in this case, defence has had led evidence therefore, the same was closed by accused Sohan Singh and Rajwinder Kaur.

21. Learned counsel for the accused though led evidence and vehemently argued that in this case, the police officials in order to save their skin have falsely procured the reports in order to declare P.O to the accused, as police officials have shot fire on the person of Nachattar Singh and Narvail Kaur his mother, which hit them on chest and abdomen and in order to corer their illegal acts a false FIR No. 38/15, under Section 307/353/333/186/225/224/506/148/149 IPC, P.S. Chohla Sahib was registered and fake reports were procured by the police officials as the accused had knocked the door of the Hon'ble Punjab and Haryana High Court, Chandigarh and they were regularly approaching the Hon'ble High Court and even the number of writ petition as well as various orders passed by the Hon'ble High Court which clearly proves that already the Hon'ble High Court has taken the notice of the present case and further the police officials were order to look after the life and liberty of the accused persons even the reports submitted by the police official look frivolous one as the Hon'ble High Court ordered the police officials to file fresh affidavit despite all of that accused persons were declared wrongly P.O as they never left the village and the alleged reports were procured and prepared while sitting in their officer.

22. Having heard the rival contentions and after carefully perusing the record of the judicial file, this Court is of the considered view that the accused was required to appear before this Court of learned Ms. Parvinder Kaur the then JMIC, Tarn Taran in trial arising out of FIR No. 38/15 under Sections 307/333/ 353/186/225/224/506/148/149 IPC, Police

Station Chohla Sahib. He failed to appear and subsequently, his proclamation was issued. On 17.10.2017, he was declared as proclaimed offender under Section 82 (1) Cr.P.C. Intimation regarding declaration of the accused as proclaimed person was sent to the SHO . These documents have been proved in the evidence by PW4 Kuldeep Singh, Criminal Ahlmad. Therefore, the prosecution has been duly proved the fact that the accused was required to attend the Court and that he jumped the concession of bail by absconding and was finally declared as proclaimed person. Therefore, the prosecution has been duly able to discharge the onus of proof upon it. Further, it is also proved that PW1 ASI Prem Singh, Investigating Officer of the case, has arrested the accused, consequent upon the receipt of information from the Court, regarding declaration of the accused as proclaimed person. The arguments raised by the Ld. Counsel for the accused that accused have been falsely implicated is not sustainable as PO order by court of Ms. Parvinder Kaur dated 28.04.2015 has been placed and proved on file. The accused had never challenged the said order in any court of law.

23. On the strength of the discussion made above and from the evidence led by the prosecution, it is held that the case of the prosecution has been duly proved. The prosecution has been able to prove its case on the test of beyond reasonable doubt. The accused are found to have committed the offence under Section 174-A IPC by having been failed to appear before the Court despite proclamation having been published against them requiring him to appear before the Court. Therefore, the accused persons namely Sohan Singh and Rajwinder Kaur are hereby held guilty for commission of offence punishable under Section 174-A IPC. Therefore, accused persons are convicted under the aforesaid offence. Let, they be heard on the quantum of sentence.

Pronounced:
15.10.2019

(Vishavjyoti)
Judicial Magistrate First Class
Tarn Taran. UID PB0560

QUANTUM OF SENTENCE

Present: Sh. Satinderjit Singh Gill APP for the State.
Accused Sohan Singh and Rajwinder Kaur on bail with their counsel.

The convict has been heard on the quantum of sentence. He states that he is only bread winner of his family and lenient view may be taken in his case.

Having heard the plea of the convict and after giving thoughtful consideration to the circumstances surrounding the case, this Court is of the considered opinion that the conduct of the convict having absconded from the Court does not warrant a lenient view to be taken, while deciding the quantum of sentence to be imposed upon them. However, at the same time, this Court is also bound to take cognizance of the fact that the convict is the sole bread winner of his family and that they were apprehended within week of his being declared proclaimed persons. Though a deterrent sentence needs to be imposed him, yet, at the same time, it is to be borne in mind that the sentence should be only sufficient to not only act as retribution for the conduct of the convict, but also leave some scope for his reformation. A sentence of imprisonment is no doubt, warranted in the facts of the case, yet, it has to be watered down, in order to ensure that the convict is not lost forever, beyond the possibility of rapprochement. Moreover, they must have learnt a lesson. Therefore, keeping in view the totality of the circumstances, convict is sentenced to undergo simple imprisonment for the period already undergone by them and to pay fine of Rs.500 each. After due compliance, file be consigned to the record room.

Pronounced Pronounced:
15.10.2019

(Vishavjyoti)
Judicial Magistrate First Class
Tarn Taran. UID PB0560