

**IN THE COURT OF SH. JITENDRA SINGH
ADDL. CHIEF METROPOLITAN MAGISTRATE : CENTRAL
TIS HAZARI COURTS : DELHI**

FIR No. 329-2018
ID 2157-2019
U/S. 188 IPC
PS Paharganj
State Vs. Maynk Singh

JUDGMENT

1. Sr. No of case	2157-2019
2. Date of commission of offence	07.11.2018
3. Name of complainant	SI Khajan Singh
4. Name of accused	Mayank Singh S/o. Sh. Rakesh Singh R/o; MSC-267, 2 nd Floor, Gali no. 03, Mohalla Yogmaya, Multani Dhanda, Nabi Karim, Delhi.
5. Offence complained of	U/s. 188 IPC
6. Plea of accused	Pleaded not guilty
7. Final order	Convicted
8. Date of such order	03.06.2019

1. FACTS IN BRIEF/ CASE SET UP BY PROSECUTION:-

Accused has been sent for trial on the allegations that on 07.11.2018, at about 10.35 pm, at Sangat Rashaan Chowk, near Hotel Silver Sign, Paharganj, Delhi, within the jurisdiction of PS Paharganj, accused was found cracking/bursting the firecrackers after 10.00 pm and accused violated the order of Hon'ble Apex

Court of Delhi, vide judgment in Writ petition (Civil) No. 738/2015 despite in fact that accused was directed to abstain from doing the said act by the police officials.

2. MISCELLANEOUS PROCEEDINGS:-

After completion of the investigation, chargesheet was filed by the police against accused. Cognizance of the offence was taken and the accused was summoned. Copy of the chargesheet was supplied to the accused and the matter was adjourned for arguments on charge.

3. NOTICE FRAMED AGAINST THE ACCUSED:-

Notice for offence punishable u/s. 188 IPC was given to the accused, to which he pleaded not guilty and claimed trial.

4. EVIDENCE LED BY THE PROSECUTION:-

In order to prove its case, prosecution has examined one witness. The testimony of the said witness in brief is as under :-

(a)PW1 is SI Khajan Singh. PW1 deposed that on 07.11.2018, he was posted at PS Paharganj as SI. On that day, he alongwith Ct. Hazari Lal were on night emergency duty and after received DD No. 22 PPST, he alongwith Ct. Hazari Lal was passing near Sangat Rashan Chowk, near Silver Sign Hotel, he saw that one person was bursting the firecrackers after 10.00 pm and asked him not to do so as this is the clear violation of Hon'ble Apex Court. He further deposed that

after that, when they were returning after attend the call, they saw that the same person was bursting the firecrackers despite his direction. When the said person was not stopped the bursting the firecrackers, he with the help of Ct. Hazari Lal apprehended the said persons, who revealed his name as Mayank Singh, who is present in the court and correctly identified by the witness. After that he registered a case against him for violation of the order Hon'ble Apex Court. He prepared the tehrir, which is Ex. PW1/A, bearing his signature at point A and same was handed over to Ct. Hazari Lal for registration of FIR. In the meanwhile, he investigate the matter further and prepared the site plan, which is Ex. PW1/B, bearing his signature at point A. In the meanwhile, Ct. Hazari Lal arrived at the spot and handed over to him copy of FIR and original rukka. After that with the permission of SHO PS Paharganj, he added the Section 285 IPC against the accused. He further deposed that after that he bound down the accused. Thereafter, he bound down the accused, vide pabandinama, which is Ex. PW1/C, bearing his signature at point A. he had also recorded the statement of Ct. Hazari Lal. He further deposed that on complaint under Section 195 of Cr.P.C. was made and the permission was obtained. After that accused was released on police bail being theailable offences. Thereafter completion of investigation, he filed the challan before

the court.

(b) STATEMENT OF ACCUSED:-

Statement of accused was recorded u/s. 313 Cr.P.C. wherein the incriminating evidence was put to the accused. In the said statement u/s. 313 Cr.P.C, accused has admitted the allegations however stated that he was not aware about the order of Hon'ble Apex Court. Accused had not led any evidence in his defence.

5. ARGUMENTS OF LD. APP FOR STATE AND ACCUSED:-

Ld APP for the State had argued that the prosecution has successfully proved its case against the accused beyond reasonable doubt. Ld APP for the State had also argued that the factum of violation of the order of ACP concerned by accused has been proved beyond reasonable doubt and therefore, accused is liable to be convicted in this case.

On the other hand, accused has stated that he was not aware about the notification and has stated that he had not known about the order of Hon'ble Apex Court.

6. REASONS FOR THE DECISION:-

- (i) Before proceeding further, I need to discuss the relevant legal propositions applicable on to the facts of the case. It is a settled proposition of criminal law that the prosecution is supposed to prove its case on judicial file beyond reasonable doubt

by leading reliable, cogent and convincing evidence & that in order to prove its case on judicial file, the prosecution is supposed to stand on its own legs whereby it cannot derive any benefit whatsoever from the weaknesses, *if any*, in the defence of the accused. Further settled it is, that the primary burden of proof for proving the offences in a criminal trial rests on the shoulders of the prosecution, which burden never shifts on to the accused.

(ii) It is no longer *Res Integra* that accused is entitled to benefit of every reasonable doubt(s) appearing *qua* the material facts of the prosecution's story whereby such reasonable doubt(s) entitles the accused to acquittal.

(iii) In the light of the above discussed legal position, I shall now step forward to divulge my opinion on the respective fate of the accused.

(iv) The testimony of PW-1, who is material witness had deposed that despite his direction accused not to abstain from doing the abovesaid act. Despite cross examination of the PW1, nothing substantial in the favour of the accused came on record. The prosecution has successfully brought on record that the accused had violated the order of Hon'ble Apex Court. Accused has also admitted the registration of the present FIR. Thus, the testimony of PW1 clearly proves that the accused has committed the offence u/s.

188 IPC.

7. **CONCLUSION:-**

For the reasons assigned hereinabove, I am of the view that the prosecution has successfully proved the offence u/s. 188 IPC against the accused. Accordingly, accused is convicted for the offence u/s 188 IPC.

Judgment dictated and
pronounced in the open Court
i.e. the 3rd June of , 2019

JITENDRA SINGH
ACMM:CENTRAL DISTT:DELHI

(This judgment consists of 6 pages)

**IN THE COURT OF SH. JITENDRA SINGH
ADDL. CHIEF METROPOLITAN MAGISTRATE : CENTRAL
TIS HAZARI COURTS : DELHI**

FIR No.	329-2018
ID	2157-2019
U/S.	188 IPC
PS	Paharganj
State	Vs. Maynk Singh

ORDER ON POINT OF SENTENCE

Present: Ld APP for State.

Convict in person.

I have heard Ld APP for State as well as Convict on the point of sentence and have perused the record.

It is submitted by Convict that she is first time offender and only bread earner in her family. It is further submitted by the convict that she is not a previous convict. Convict has prayed for a lenient view.

On the other hand Ld APP for State submitted that the convict be sentenced to maximum punishment as prescribed for the offence in question.

In the present case convict has been convicted for offence punishable u/s. 188 IPC. No previous conviction has been alleged or proved against convict. The convict is not involved in any such case, as

stated by her.

Keeping in view the facts and circumstances of the case and also the fact that the convict is facing trial for bursting the firecrackers. I am of considered view that ends of justice would be met if the convict is admonished u/s. 3 of The Probation of Offender's Act, 1958. Further u/s. 5 of The Probation of Offender's Act, 1958, convict is directed to deposit Rs. 500/- as the cost of the proceedings of the court. The same has been deposited. Receipt be issued.

Needless to say that the convict shall be entitled to the benefit u/s. 12 of the Probation of the Offender's Act and no disqualification shall be attached with the conviction as the accused person/convict has been admonished in the instant matter.

Announced in open Court
i.e. the 3rd June, of, 2019

JITENDRA SINGH
ACMM:(C) DISTT:DELHI

