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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.L.P. 225/2021

STATE

.....Petitioner

Through: Mr. Shoaib Haider, APP.

versus

JEET RAM & ANR.

.....Respondents

Through: Mr. Anil Kumar, Advocate for R-2.

CORAM:

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

ORDER

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16.07.2026

The lawyers' are abstaining from work due to the enhancement of the pecuniary jurisdiction of the District Courts in Delhi from Rs.2 Crores to Rs.10 Crores.

1. The present appeal has been preferred by the State under Section 36B of the Narcotic Drugs and Psychotropic Substances Act, 1985 ("NDPS Act") read with Section 378 of the Code of Criminal Procedure, 1973 ("Cr.P.C."), assailing the judgment dated 28.02.2020 ("impugned judgment") passed by the learned Special Judge-02, NDPS Act, Central District, Tis Hazari Courts, Delhi ("the Trial Court"), in FIR No. 19/2017, registered at P.S. Crime Branch, under Sections 20(b)(ii)(B) and 29 of the NDPS Act, whereby the Trial Court acquitted Respondent no. 1, Jeet Ram of the charge under Section 20(b)(ii)(B) and Respondent no. 2 the charge under Section 29 of the NDPS Act, extending to them the benefit of doubt.



2. The prosecution's case, is that on 16.02.2017, at about 11:45 a.m., on the footpath opposite ISBT Kashmere Gate, Delhi, respondent no. 1, Jeet Ram was apprehended by a team of the Crime Branch and 500 grams of charas was recovered from his conscious possession, concealed in a bag he was carrying.
3. On interrogation, Jeet Ram is stated to have disclosed that he had procured the contraband from respondent no. 2, Gyan Chand for onward supply to persons identified only as "Shree" and "Vikas". FIR No. 19/2017 was accordingly registered and upon completion of investigation, a chargesheet was filed under Section 20(b) read with Section 29 of the NDPS Act against both respondents.
4. Charges under Section 29 of the NDPS Act were framed against both respondents, and an additional charge under Section 20(b)(ii)(B) was framed against respondent no. 1.
5. In their statements recorded under Section 313 Cr.P.C., both respondents denied the incriminating circumstances put to them and pleaded false implication. Upon appraisal of this evidence, the Trial Court rendered the impugned judgment acquitting both respondents.
6. On a cumulative assessment, the Trial Court concluded that the prosecution's case was "*riddled with lacunae, gaping holes and glaring defects,*" and the marked variations in the depositions of the recovery witnesses on the form and appearance of the substance and on the sampling procedure rendered the recovery doubtful. Respondent no. 1 was accordingly entitled to the benefit of doubt and stood acquitted of the charge under Section 20(b)(ii)(B) of the NDPS Act.
7. *Qua* respondent no. 2, Gyan Chand, the Trial Court held that the



material relied upon to connect him with the offence, namely, the disclosure made by Respondent no. 1 while in custody, the CDRs of the two respondents, and two bank deposits of Rs. 20,000/- each was, “*in itself not sufficient for making of any kind of assumptions and drawing of any manner of inferences.*” Since Respondent No. 1 had already been extended the benefit of doubt on the substantive recovery, the Trial Court held that the case against Respondent No.2 “*had no legs to stand on,*” and acquitted both respondents of the charge under Section 29 of the NDPS Act.

8. Mr. Shoaib Haider, learned APP appearing for the State, assails the impugned judgment principally on the grounds that the discrepancies regarding the shape and colour of the recovered substance are immaterial in view of the unambiguous FSL opinion identifying it as charas. He submits that the recovery witnesses were in fact unanimous on the sampling procedure, who deposed that two 25-gram samples were drawn by SI Jai Prakash (PW-8) and that the case property was duly produced and identified at trial as Ex. P-1 to P-3.

9. It is respondents case that impugned judgment, represents a conscientious and complete appraisal of the entire body of evidence led by the prosecution, and discloses no illegality, infirmity or perversity warranting interference. It is submitted that the present petition merely reargues the case that was urged before, and rejected by, the Trial Court, without demonstrating that the view taken is either impossible or unreasonable, and is accordingly liable to be dismissed.

10. The Privy Council in ***Sheo Swarup v. King Emperor***¹, in a formulation that continues to anchor this branch of the law, held that while



the High Court possesses full power to review the evidence in an appeal from an order of acquittal as it does in an appeal from conviction, it must nonetheless always give proper weight and consideration to parameters produced hereinunder:-

“But in exercising the power conferred by the Code and before reaching its conclusions upon fact, the High Court should and will always give proper weight and consideration to such matters as:

- 1) The views/opinions of the trial judge as to the credibility of the witness;*
- 2) The presumption of innocence in favour of the accused;*
- 3) The right of the accused to the benefit of any doubt; and*
- 4) The slowness of an appellate court in disturbing a finding of fact arrived at by a judge who had the advantage of seeing the witnesses.*

11. This formulation was reiterated by the Supreme Court in ***M.G. Agarwal v. State of Maharashtra***², and has since been consistently followed, most recently in ***Siju Kurian v. State of Karnataka***³, where the Supreme Court reaffirmed that these considerations are not mere formalities but substantive checks on appellate interference. Paragraph no. 16 of ***M.G. Agarwal*** (supra) is reproduced as under:-

“16. Section 423 (1) prescribes the powers of the appellate Court in disposing of appeals preferred before it and clauses (a) and (b) deal with appeals against acquittals and appeals against convictions respectively. There is no doubt that the power conferred by clause (a) which deals with an appeal against an order of acquittal is as wide as the power conferred by clause (b) which deals with an appeal against an order of conviction, and so, it is obvious that the High Court's powers in dealing with criminal appeals are equally wide whether the appeal in question is one against acquittal or against conviction. That is one aspect of the question. The other aspect of the question centres round the approach which the High Court adopts in dealing with appeals against orders of acquittal. In dealing with such appeals, the High Court ;naturally bears in mind the presumption of innocence in favour of an accused person and cannot lose sight of the fact that the said presumption is strengthened by the order of

¹ 1934 SCC OnLine PC 42

² 1963 SCR (2) 405

³ (2023) 14 SCC 63



acquittal passed in his favour by the trial Court and so, the fact that the accused person is entitled to the benefit of a reasonable doubt will always be present in the mind of the High Court when it deals with the merits of the case. As an appellate Court the High Court is generally slow in disturbing the finding of fact recorded by the trial Court, particularly when the said finding is based on an appreciation of oral evidence because the trial Court has the advantage of watching the demeanour of the witnesses who have given evidence. Thus, though the powers of the High Court in dealing with an appeal against acquittal are as wide as those which it has in dealing with an appeal against conviction, in-dealing with the former class of appeals, its approach is governed by the overriding consideration flowing from the presumption of innocence. Sometimes, the width- of the power is emphasized, while on other occasions, the necessity to adopt a cautious approach in dealing with appeals against acquittals is emphasised, and the emphasis is expressed in different words or phrases used from time to time. But the true legal position is that however circumspect and cautious the approach of the High Court may be in dealing with appeals against acquittals, it is undoubtedly entitled to reach its own conclusions upon the evidence adduced by the prosecution in respect of the guilt or innocence of the accused. this position has been clarified by the Privy Council in Sheo Swarup v. The, King Emperor (1) and Nur Mohammad v. Emperor

12. The general principles governing the exercise of this jurisdiction were authoritatively summarised by the Supreme Court in ***Chandrappa v. State of Karnataka***⁴, holding that “an appellate court has full power to review, reappraise and reconsider the evidence upon which an order of acquittal is founded, and the Cr.P.C. places no restriction on the exercise of that power.” Expressions such as “substantial and compelling reasons,” “good and sufficient grounds” or “glaring mistakes” are not intended to curtail this power, but are, in the words of the Supreme Court, merely “flourishes of language” emphasising the appellate court’s reluctance to interfere. Paragraph 42 is reproduced as under:-

“42.From the above decisions, in our considered view, the following general principles regarding powers of the appellate court while dealing

⁴ (2007) 4 SCC 415



with an appeal against an order of acquittal emerge”

(1) An appellate court has full power to review, reappreciated and reconsider the evidence upon which the order of acquittal is founded.

(2) The Code of Criminal Procedure, 1973 puts no limitation, restriction or condition on exercise of such power and an appellate court on the evidence before it may reach its own conclusion, both on questions of fact and law.

(3) Various expressions, such as, “substantiated and compelling reasons”, “goof and sufficient grounds”, “very strong circumstances”, “distorted conclusions”, “glaring mistakes”, etc. are not intended to curtail extensive powers of an appellate court in an appeal against acquittal. Such phraseologies are more in the nature of “flourishes” of “language” to emphasise the reluctance of an appellate court to interfere with acquittal than to curtail the power of the court to review the evidence and to come to its own conclusion.

(4) An appellate court, however, must bear in mind that in case of acquittal, there is double presumption in favour of the accused. Firstly, the presumption of innocence is available to him under the fundamental principle of criminal jurisprudence that every person shall be presumed to be innocent unless he is proved guilty by a competent court of law. Secondly, the accused having secured his acquittal, the presumption of his innocence is further reinforced, reaffirmed and strengthened by the trial court.

(5) If two reasonable conclusions are possible on the basis of the evidence on record, the appellate court”.

13. This Court had occasion to apply this framework in **State v. Ravi Kumar**⁵, where leave to appeal against an acquittal was declined on the ground that the State had failed to demonstrate that the trial Court’s view was anything other than a plausible one, notwithstanding that certain individual observations of the trial court were themselves open to debate.

14. The Supreme Court’s decision in **Ramesh Babulal Doshi v. State of Gujarat**⁶ supplies the analytical discipline that an appellate court must bring to this exercise. It requires the appellate court, before embarking upon any independent reappraisal of the evidence, to first pose a threshold question:

⁵ MANU/DEOR/48163/2025

⁶ (1996) 9 SCC 225



do the findings of the trial court suffer from any of the recognised infirmities, namely, that the approach is vitiated by manifest error of law or fact, that it results in a miscarriage of justice, or that the conclusion is one that could not reasonably have been reached on the material on record.

15. Only if this threshold question is answered in the affirmative does the appellate court proceed to reappraise the evidence and substitute its own conclusion; if it is answered in the negative, the acquittal must stand undisturbed, however persuasively an alternative view might be constructed.

Paragraph No. 7 of **Ramesh Babulal** (supra) is reproduced as under:

“7. Before proceeding further it will be pertinent to mention that the entire approach of the High Court in dealing with the appeal was patently wrong for it did not at all address itself to the question as to whether the reasons which weighed with the trial Court for recording the order of acquittal were proper or not. Instead thereof the High Court made an independent reappraisal of the entire evidence to arrive at the above quoted conclusions. This Court has repeatedly laid down that the mere fact that a view other than the one taken by the trial Court can be legitimately arrived at by the appellate Court on reappraisal of the evidence cannot constitute a valid and sufficient ground to interfere with an order of acquittal unless it comes to the conclusion that the entire approach of the trial Court in dealing with the evidence was patently illegal or the conclusions arrived at by it were wholly untenable. While sitting in judgment over an acquittal the appellant Court is first required to seek an answer to the question whether the findings of the trial Court are palpably wrong, manifestly erroneous or demonstrably unsustainable. If the appellant Court answers the above question in the negative the order of acquittal is not to be disturbed. Conversely, if the appellant Court holds, for reasons to be recorded, that the order of acquittal cannot at all be sustained in view of any of the above infirmities it can then - and then only - reappraise the evidence to arrive at its own conclusions. In keeping with the above principles we have therefore to first ascertain whether the findings of the trial Court are sustainable or not.”

16. The Supreme Court in **Ghurey Lal v. State of Uttar Pradesh**⁷

⁷ (2008) 10 SCC 450



reinforced this position by holding that an appellate Court reviewing an acquittal must attach due weight to the trial Court's finding, because the presumption of innocence is "further strengthened" by it, and must reverse the acquittal only where there exist "*very substantial and compelling reasons*".

17. It is against this settled matrix of law that the submissions of the State must be tested, and it bears emphasis that the question before this Court at this stage is not whether an alternative view of the evidence is possible, but whether the view actually taken by the Trial Court is one that no reasonable court, applying its mind to the record, could have taken.

18. Taking up the grounds urged by the State, the submission that the discrepancy regarding the form and colour of the substance is rendered immaterial by the FSL opinion proceeds on a partial reading of the impugned judgment. The FSL report speaks to the chemical composition of the sample that was, in fact, sent for analysis. It says nothing about whether that sample can safely be traced back, without a break in the chain of custody, to the substance actually recovered from Respondent no. 1 on 16.02.2017.

19. It is precisely this link, between seizure and analysis, that the Trial Court found missing, on account of the divergent descriptions given by three witnesses who each claimed to have contemporaneously observed the very same substance, and the disappearance of the towel that the seizure memo itself recorded as part of the recovered case property. Viewed in isolation, the shape and colour discrepancies might well be dismissed as the kind of minor variation that trial and appellate Courts are routinely, and correctly, cautioned not to treat as fatal.



20. But the Trial Court did not treat them in isolation; it treated them as one strand in a larger pattern of inconsistency that, taken cumulatively with the non-production of Mark 'S1' and the unexplained absence of the towel, was capable of raising a reasonable doubt as to whether the contraband produced and analysed was, in fact, the contraband seized. That is a plausible, and indeed a fairly conventional, basis on which acquittal is founded in NDPS matters, where the integrity of the sample is often the fulcrum on which the entire prosecution turns.

21. The State's submission that the earlier Section 52-A proceedings sufficiently substituted for production of Mark 'S1' does not answer the Trial Court's concern; it does not explain why the sample itself, once drawn and marked, could not be produced, nor does it account for the missing inventory and photographs that the statutory scheme contemplates as safeguards precisely for cases such as this.

22. As regards Respondent no.2, Gyan Chand, his prosecution rested entirely on the disclosure statement made by Respondent no.1 while in custody itself of limited evidentiary value against a co-accused in the absence of independent corroboration, together with CDR evidence establishing contact between the two respondents and two bank transfers of Rs. 20,000/- each.

23. The Trial Court's assessment that this material does not permit a court to draw an inference of guilt beyond a reasonable doubt cannot be said to be an unreasonable one. Contact between two persons and transfer of money between them are, without independent proof of the underlying transaction alleged, equally consistent with innocent explanations. This becomes only more so once the substantive recovery from Respondent No.1 is itself under



a cloud, since the case against Respondent No.2 as the alleged source of the contraband is, definitionally, parasitic upon the reliability of that recovery.

24. Applying the two-question test articulated in **Ramesh Babulal Doshi** (supra) as to whether the Trial Court's findings suffer from any manifest error of law or fact, or result in a miscarriage of justice, or are conclusions that could not reasonably have been reached on the material on record. This Court finds that none of these infirmities is made out. The Trial Court's judgment reflects a discipline in evidentiary appreciation: it examined each witness's testimony on its own terms, cross-checked one recovery witness's version against another's, tested the documentary trail against the oral evidence, and arrived at a conclusion that, whatever view this Court might independently be inclined to take on a bare reading of the record, cannot be characterised as palpably wrong, wholly unsustainable, or perverse within the meaning of **Ghurey Lal** (supra).

25. It is well settled that in a case built substantially on recovery, as an offence under the NDPS Act ordinarily is, the sanctity of the chain of custody is not a technicality but the very foundation on which the prosecution's edifice must rest. Where three eyewitnesses to a single, contemporaneous act of recovery and sampling render materially divergent accounts, where the very sample drawn under judicial supervision to guard against disputes of this kind is not produced, and where an item expressly recorded as part of the seized case property vanishes without explanation, a court is not merely entitled, but is bound, to pause and ask whether the chain has, in fact, remained unbroken.

26. The Trial Court asked precisely that question and answered it in the negative. That is a plausible view of the evidence, indeed, on the facts as



recorded, a fairly compelling one, and this Court is not persuaded that it discloses the “substantial and compelling reasons” that alone would justify interference with an order of acquittal.

27. For the foregoing reasons, this Court is of the considered opinion that the State has failed to demonstrate that the impugned judgment dated 28.02.2020 suffers from any manifest illegality, perversity, or error apparent on the face of the record. The view taken by the Trial Court is a plausible view, reasonably arrived at upon a conscientious appraisal of the evidence on record, and does not warrant interference in the exercise of this Court’s appellate jurisdiction under Section 36-B of the NDPS Act read with Section 378 of the Cr.P.C.

28. Accordingly, the present appeal, along with all pending applications, if any, is dismissed. The impugned judgment dated 28.02.2020 passed by the learned Special Judge-02, NDPS Act, Central District, Tis Hazari Courts, Delhi, in FIR No. 19/2017, is upheld.

PURUSHAINDR KUMAR KAURAV, J

JULY 16, 2026

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