

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 1166 of 2015**

Ranjeeta wife of Bhagwat Shikari aged about 35 years, R/o village Matiyari, P.S. Seepat, District Bilaspur (CG)

---- Appellant**Versus**

State of Chhattisgarh Through the Police Station Torwa, District Bilaspur (CG)

---- Respondent

For Appellant	: Ms. Nirupama Bajpai, Advocate
For State/Respondent	: Shri Sameer Behar, Panel Lawyer

HON'BLE SHRI JUSTICE CHANDRA BHUSHAN BAJPAI**JUDGMENT****23/9/2015**

1. Challenge in this appeal is to the judgment of conviction and order of sentence dated 4.9.2015 passed by the Special Judge, (Narcotic Drugs and Psychotropic Substances Act, 1985), Bilaspur (CG) in Special Criminal Case No.341/2014, whereby and whereunder the learned Special Judge after holding the appellant- Ranjeeta guilty for illicit possession of 6 kg of psychotropic substance ganja, the cannabis, convicted her under Section 20 (b) (ii) B of the Narcotic Drugs and Psychotropic

Substances Act, 1985 (for short the 'NDPS Act') and sentenced to undergo R.I. for 2 years and fine of Rs. 20,000/-, in default of payment of fine to further undergo R.I. for 4 months.

2. The conviction is impugned on the ground that without there being any iota of evidence, the Court below has convicted and sentenced the appellant as aforementioned and thereby committed illegality.

3. As per case of the prosecution on 27.8.2014, at about 2.35 pm, near Gurunanak Chowk, Police Inspector, Sushila Tekam (PW8), received information regarding keeping of ganja by some lady, standing on the spot. She recorded the information and informed her superior officials and thereafter along with Police team and Panch witnesses proceeded for the spot. On the spot she found the appellant. After asking the appellant her name and address, the Investigating Officer gave notice under Section 50 of the NDPS Act and informed her regarding her legal rights to be searched before the Magistrate or by the gazetted officer. The appellant consented to be searched by the Investigating Officer. Thereafter on search a bag was found in the possession of the appellant. On physical examination, it was identified as ganja. The weight of the said ganja was 6 kg. The Investigating Officer duly seized and sealed the remaining ganja, collected sample and conducted entire investigation including lodging of the FIR and the

statements of the witnesses. During investigation, sample was sent to Forensic Science Laboratory for chemical analysis. The FSL Report confirmed the collected sample as ganja. After completion of the investigation, charge-sheet was filed before the concerned Special Court, who in turn, framed charges. The appellant denied the charges and prayed for trial.

4. In order to prove the guilt of the appellant, prosecution examined as many as 8 witnesses. Statement of the appellant was recorded under Section 313 Cr.P.C. in which she denied the circumstances appearing against her, pleaded innocence and false implication in the crime in question. After affording opportunity of hearing to the parties, the learned Special Judge convicted and sentenced the appellant as above.

5. Learned Counsel for the appellant submits that she is not contesting the appeal on its merits, but she is confining her arguments to the quantum part only. She submits that the appellant is a woman aged about 35 years with no criminal history regarding similar or any other offence. The appellant is in jail since 28.8.2014 and thereby she has served the major part of the sentence for 1 year and 25 days. There is no minimum sentence prescribed for the offence and the fine sentence is also excessive. As the appellant is a poor lady, she is unable to deposit such huge amount. She will not commit any such offence in future.

Therefore, the appellant may be adequately sentenced sympathetically so that she may live in the society as a law abiding person.

6. On the other hand, learned counsel for the State opposed the arguments and supported the judgment passed by the Court below. He submits that looking to the quantity of 6 kg ganja seized from the possession of the appellant, it is clear that it was for sale or otherwise consumption. The trial Court had adequately convicted and sentenced appellant, hence, the appeal may be dismissed on both the grounds of conviction and sentence.

7. I have heard Learned Counsel for the parties and perused the judgment impugned.

8. On close scrutiny of the facts mentioned in the judgment, it appears that the offence is duly proved by the prosecution. The appellant was found in possession of 6 kg of ganja. The conviction under Section 20 b (ii) B of the NDPS Act is not assailed on behalf of the appellant. I do not find any illegality or impropriety in the judgment passed under Section 20 b (ii) (B) of the N.D.P.S. Act.

9. So far as quantum of sentence is concerned, looking to the fact that there is no previous criminal history discussed in the judgment and there is no minimum sentence prescribed for the offence and the appellant has served maximum part of the

sentence i.e. for 1 year and 25 day, in the considered view of this Court, the period already undergone would meet the ends of justice. So far as fine sentence is concerned, looking to the status of first offender, the ganja so seized from her, fine sentence requires interference.

10. Consequently, the appeal filed by the appellant is allowed in part. The conviction under Section 20 (b) (ii) B of the NDPS Act is hereby affirmed. Rigorous Imprisonment for 2 years is hereby reduced to the period already undergone and the appellant is sentenced for the period already undergone. Also, fine sentence of Rs.20,000/- awarded by the trial Court is reduced to Rs.10,000/- in default of payment of fine she has to undergo R.I. for 4 months.

11. The appellant be released forthwith if not required in any other case after deposit of the fine amount of Rs.10,000/-. If the fine amount is not deposited, she be served with the default sentence till realization of the fine amount.

12. The appeal is partly allowed.

Sd/

(Chandra Bhushan Bajpai)
JUDGE

