

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Date of Decision : 11.02.2015

1. CRA-S-120-SB of 2005

Hanuman

.....Appellant

Versus

State of Haryana

..... Respondent

2. CRA-S-2008-SB-2003

Jagga Singh

.....Appellant

Versus

State of Haryana

..... Respondent

3. CRA-S-1716-SB-2011

Kulwinder Singh

.....Appellant

Versus

State of Haryana

..... Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present : Ms.Vandana Sharma, Advocate
for appellant Hanuman and amicus curiae for
appellants Jagga Singh and Kulwinder Singh.

Mr.Raj Kumar Makkad, DAG, Haryana.

- i. Whether Reporters of local papers may be allowed to see the judgment?
- ii. To be referred to the Reporters or not?
- iii. Whether the judgment should be reported in the Digest?

AJAY TEWARI, J. (Oral)

At the very outset it is pertinent to mention here that

Ms.Vandana Sharma, Advocate is representing appellant Hanuman in CRA-

S-120-SB of 2005. Since the case of all the appellants is similar, I have requested her to appear on behalf of the other appellants also as amicus curiae. She has accepted this requested.

This order shall dispose of all the above mentioned three appeals since they have arisen out of a common FIR and similar questions of law and facts are involved. For ready reference facts from CRA-S-120-SB of 2005 are being taken which has been filed by appellant Hanuman against his conviction under Section 15 of the NDPS Act and Section 471 of the IPC whereby, for the commission of offence under Section 15 of the NDPS Act he has been sentenced to undergo rigorous imprisonment for a period of five years and to pay a fine of Rs. 30,000/- and in default thereof to further undergo rigorous imprisonment for a period of six months whereas for the commission of offence under Section 471 IPC he has been sentenced to undergo rigorous imprisonment for a period of one year and also to pay a fine of Rs. 1000/- and in default thereof to undergo rigorous imprisonment for a period of 15 days. Both the sentences were ordered to run concurrently.

The prosecution case, in brief, is that on 17.12.2001 a police party was on patrol duty at Panihar Chowk, Hisar when a Maruti car bearing registration No. UP 16E/7615 of white colour was seen coming from the side of Rajgarh and its driver, on seeing the police party, slowed down the speed of the car and tried to reverse it. It raised suspicion in the mind of the police party that there must be some narcotic substance in the car and they got it stopped. Appellant Hanuman was driving the car and two more persons namely Jagga Singh and Kulwinder Singh (appellants in other appeals) were sitting on the rear seat. After complying with usual formalities of search, a bag containing poppy husk was recovered which on

weight was found to be 34 Kilograms 600 grams. On further investigation the registration certificate, pollution certificate and insurance policy of the car were also found to be forged and fabricated. Its number plate was also false which was found to be a stolen one. A ruqa was then sent to the police station for registration of case and on completion of usual formalities of investigation challan was filed against the appellant/s.

After framing of charge, prosecution led its evidence and examined as many as 12 witnesses. In defence evidence the accused-appellants denied all the incriminating material produced against them and pleaded false implication. When the case was at the stage of defence evidence appellant Hanuman(appellant in CRA-S-120-SB-2005) and Kulwinder(appellant in CRA-S-1716-SB of 2011) absented themselves and they were declared proclaimed offenders on 19.7.2003. Accused-appellant Jagga(appellant in CRA-S-2008-SB-2005) was convicted vide judgment and order dated 11.8.2003. Appellant Hanuman was arrested by the police on 17.7.2004. That is the reason their cases were decided by different Courts on different dates.

After hearing both the sides the trial Court convicted the present appellant in the manner indicated above and that is why he has come up before this Court by way of the present appeal.

Learned counsel states that she does not press this appeal on merits but only on the quantum of sentence. She has argued that recovery was about 35 Kilograms of poppy husk which is a non-commercial quantity and that too from three persons and if looked at from this angle the punishment awarded is unduly harsh. She has prayed for some leniency in sentence as the appellants are facing these criminal proceedings for the past more than 13 years. Learned DAG has accepted this factual assertion and

has stated that he has no objection if the sentence is reduced.

In the circumstances, even while maintaining the conviction I reduce the sentence of the appellants from 5 years to 3 years.

Appeals stand disposed of with the above modification in sentence.

Since the main case has been decided, the Criminal Misc.Application, if any also stands disposed of.

(AJAY TEWARI)
JUDGE

February 11, 2015
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