

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

Criminal Appeal No.S-2275 of 2003

Date of Decision: March 04, 2015

Karamjit Singh @ Happy

.....Appellant

Versus

State of Punjab

.....Respondent

CORAM:- HON'BLE MR.JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.Padam Jain, Advocate for the appellant.

Mr.NK Chopra, Deputy Advocate General, Punjab.

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TEJINDER SINGH DHINDSA, J.

The instant appeal is directed against the judgment dated 3.12.2003 passed by the Special Court, Kapurthala whereby the accused-appellant has been sentenced to undergo rigorous imprisonment for two years and imposed a fine of ₹30,000/- and in default of payment of fine, to further undergo rigorous imprisonment for four months for commission of an offence under Section 18 of the Narcotic Drugs & Psychotropic Substances Act (for short 'the Act').

2. Learned counsel for the parties have been heard.

3. Briefly, the prosecution case is that on 17.3.1996, the police party headed by SHO Jaswinder Pal Singh was going on G.T. Road towards Goraya and a person was seen coming from the

side of village Virkanand and a suspicion having been aroused, he was stopped and upon enquiry, his name was disclosed as Karamjit Singh @ Happy son of Swaran Singh. Police party noticed something in the right pocket of his trouser and the Investigating Officer then informed the accused about his own identification and that he suspected some contraband in the pocket of the accused and that search of the same was to be conducted. Investigating Officer also apprised him of his legal right to be searched before some Gazetted Officer or a Magistrate, but the accused reposed faith in him. Upon search having been conducted, some contraband wrapped in a glazed paper was recovered from the right side pocket of the trouser of the accused. Five grams of the contraband was separated as a sample and the remaining, upon being weighed, was found to be 395 grams. The same was put in a Tin, Exhibit P1. Both, the sample and the remaining contraband, were sealed after converting into parcels and taken into possession vide recovery memo, Exhibit PD. Accused was arrested and ruqa, Exhibit PA, was sent to the Police Station and on the basis thereof, formal FIR, Exhibit PA/1, was recorded. Sample was sent to Assistant Chemical Examiner, Jalandhar, whereupon report was furnished that the contraband contained opium. After completion of investigation, the accused was challaned and sent up for trial. Copies of documents were supplied to the accused free of cost as per mandate of Section 207 of the Code of Criminal Procedure. Case was committed by Judicial Magistrate Ist Class, Jalandhar to the Court of Sessions Judge, Kapurthala vide order dated

21.9.1996 and thereafter was entrusted to the Special Court, Kapurthala.

4. Finding a prima facie case under Section 18 of the Act, charge was framed against the accused-appellant to which he pleaded not guilty and claimed trial.

5. To substantiate its case against the accused/appellant, the prosecution examined PW1 ASI-Bhag Singh, PW2 Head Constable Jasbir Singh, PW3 ASI-Jaswinder Singh and PW4 ASI-Bhupinder Singh. Affidavit, Exhibit PG, of Baljit Singh, Constable and report, Exhibit PH, of the Assistant Chemical Examiner, Jalandhar were tendered towards prosecution evidence.

6. Statement of accused under Section 313 of the Code of Criminal Procedure was recorded wherein the incriminating evidence available on record was put to him. He refuted the incriminating circumstances and pleaded false implication. In defence, accused examined Avtar Singh, DW1.

7. On the basis of the evidence on record, learned trial Court held the appellant guilty of the charge framed against him and sentenced him as already indicated above.

8. On a perusal of the impugned judgment of the Court below, this Court is of the considered view that the trial Court has rightly appreciated the evidence on record while holding the appellant guilty of the charge framed against him. There is no infirmity or illegality in the findings given by the Court below. The conviction of the appellant is, thus, affirmed.

9. Even learned counsel for the appellant, during the course of arguments, has not assailed the judgment of conviction.

He has, however, pleaded for reduction in the quantum of sentence on the ground that the appellant is a poor person and the sole bread winner of the family.

10. As per custody certificate furnished by the learned State counsel, the appellant has undergone a total custody of one month and 17 days. He is not stated to be involved in any other criminal proceedings. The appellant has faced the pangs of criminal proceedings since the year 1996. It has gone uncontroverted that the fine of ₹30,000/- has already been deposited.

11. Keeping in view the facts and circumstances of the case, I deem it fit to reduce the substantive sentence of the appellant to the period already undergone by him. The fine imposed by the trial Court is, however, enhanced from ₹30,000/- to ₹50,000/-. Ordered accordingly.

12. The enhanced amount of fine be deposited within three months from the date of receipt of a certified copy of this order. However, in case fine aforesaid is not deposited within the stipulated period, the modification in quantum of sentence shall stand withdrawn and the appellant shall undergo the remaining period of sentence as awarded by the trial Court.

13. Except for the modification in the quantum of sentence and fine as indicated hereinabove, the appeal stands dismissed.

March 04, 2015

SRM

(TEJINDER SINGH DHINDSA)
JUDGE

Note: Whether to be referred to Reporter? (Yes/No)