

In the High Court of Punjab and Haryana at Chandigarh

**Crl. Appeal No. S-253-SB of 2004
Date of Decision: 04.02.2015**

Joginder Singh alias Gindu

.....Appellant

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MRS. JUSTICE SABINA

Present: Mr. Amaninder Preet, Advocate
Legal Aid Counsel for the appellant.

Mr. K.S.Aulakh, AAG, Punjab.

SABINA, J.

Appellant had faced the trial in FIR No. 461 dated 20.8.2002, registered at Police Station Sadar Patiala.

Prosecution story, in brief, is that on 20.8.2002, Sub Inspector Jagroop Singh along with other police officials, were present on the canal minor bridge in the revenue limits of village Sanaur in a government vehicle. In the meantime, PW Balbir Singh came there from Sanaur side and Sub Inspector Jagroop Singh started talking to him. Joginder Singh-appellant came there from village Noorkheri side on a bicycle with a jute bag hanging on its handle. On seeing the police party, appellant tried to turn back. Appellant was apprehended on suspicion. Sub Inspector Jagroop Singh gave an option to the appellant that he could get the search of the jute bag effected in the presence of a gazetted officer or a Magistrate as it was suspected that there was some intoxicant in the said bag. Appellant reposed confidence in Sub Inspector

Jagroop Singh. Consent memo was prepared in this regard. On search of the jute bag, 1 kilogram opium was recovered. Two samples weighing 10 grams each were separated from the recovered opium and were made into sealed parcels with seal bearing impressions 'JS'. Remaining opium was also made into a sealed parcel and was sealed with seal bearing impression 'JS'. Parcels were taken in possession. Personal search memo of the appellant was prepared and memo of grounds of arrest was prepared which was thumb marked by the appellant and attested by PW Balbir Singh. Ruqa was sent to the police station for registration of case. Rough site plan of the place of recovery was prepared. On return to the police station, appellant was produced before the Station House Officer Jassa Singh along with case property. The Station House Officer after verifying the facts, directed Sub Inspector Jagroop Singh to deposit the case property with MHC Sudh Singh. On the next day, appellant was produced before the Area Magistrate along with the case property by Assistant Sub Inspector Jai Pal Singh. After completion of investigation and necessary formalities, challan was presented against the appellant.

Charge was framed against the accused under Section 18(c) of Narcotic Drugs and Psychotropic Substances Act, 1985 ('Act' for short) vide order dated 3.2.2003.

In order to prove its case, prosecution examined six witnesses during trial.

Appellant when examined under Section 313 of the Code of Criminal Procedure, 1973, after the close of prosecution evidence, pleaded that he was innocent and had been falsely involved in this case.

Appellant examined one witness in his defence.

Trial Court vide judgment/order dated 22.1.2004 ordered the conviction and sentence of the appellant under Section 18(c) of the Act. Hence, the present appeal by appellant.

I have heard the learned counsel for the appellant and the learned State counsel and have gone through the record available on the file carefully.

PW-5 Sub Inspector Jagroop Singh while appearing in the witness box, during trial, deposed as per the prosecution case. Statement of PW-5 was duly corroborated by PW-4 Sub Inspector Rulda Singh who was member of the police party at the time of recovery of the contraband from the appellant. The said witnesses were acting in discharge of their official duty and had no reason to falsely involve the appellant in this case.

PW-3 Inspector Jassa Singh also corroborated the statement of PW-5 to the effect that the appellant along with the case property were produced before him after recovery of the contraband from the appellant.

PW-6 MHC Sudh Singh deposed that the case property was deposited with him by Sub Inspector Jagroop Singh on 20.8.2002. He further deposed that on 21.8.2012, he handed over the case property to Assistant Sub Inspector Jai Pal Singh for producing it in the Court and after producing the same in the Court, it was re-deposited with him. On 23.8.2002, he had handed over the sample parcel to Head Constable Faqir Chand for depositing the same with the Forensic Science Laboratory and after doing the needful, he handed over the receipt to him. Statement of PW-6 qua deposit of sample with the Forensic Science Laboratory, is corroborated by PW-1 Head Constable Faqir Chand.

Ex. PM is the report of the Forensic Science Laboratory and as per the same, sample was identified as opium.

Thus, in the present case, prosecution had been successful in proving its case. From the statements of the official witnesses, it is evident that the appellant was found in possession of one kilogram of opium without any permit or licence. Appellant had examined DW-1 Balbir Singh in his defence. The said witness deposed that nothing was recovered from the appellant in his presence and he had been made to sign on some blank papers. However, statement of DW-1 fails to advance the case of the appellant as all the relevant memos are duly signed by the said witness. However, it appears that DW-1 has deposed in favour of the appellant as he was won over by him during trial.

Since prosecution had been successful in proving its case, the learned Trial Court had rightly ordered the conviction and sentence of the appellant under Section 18(c) of the Act.

No ground for interference by this Court is made out.

Dismissed.

**(SABINA)
JUDGE**

February 04, 2015

Gurpreet