

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRA-S-2357-SB of 2009 (O&M)

Date of decision: 12.08.2015

Paramjit Singh @ Pamma and another Appellants

Versus

State of Punjab Respondent

CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH

1. *Whether Reporters of the local papers may be allowed to see the judgment?*
2. *To be referred to the Reporters or not?*
3. *Whether the judgment should be reported in the digest?*

Present: Mr. Vipul Jindal, Advocate
for the appellants.

Mr. Gazi Mohd., DAG, Punjab.

against him. The charge against both the appellants was held proved and they were convicted under Section 29 of the Act. The learned trial Court awarded sentence to the appellants to undergo rigorous imprisonment for ten years and to pay fine of ₹ 1 lac each, in default of payment of fine to further undergo rigorous imprisonment for one year each.

2. The Intelligence Wing of Punjab State Police headed by Additional Director General of Police (Intelligence), Punjab had initiated a large scale drive to crack smuggling of narcotic and psychotropic substances.

3. The facts of the case briefly stated are that;

On 08.11.2006, PW-1 SI Harwinderpal Singh of the Special Narcotic Cell, Punjab was present in his office at Amritsar where he received a secret information against A-1, who had escaped from police custody while being produced in the court in the year 2005 and was a proclaimed offender. The information against A-1 was that he was actively involved in smuggling of heroin and present near Punjab National Bank situated on Sultanwind road with his motorcycle No. PB-46-8897 make Bajaj Pulsar of black colour alongwith his co-accused A-2 and waiting for some party for delivery of heroin. It was further informed that if a raid is conducted, the accused persons could be apprehended alongwith heavy quantity of heroin.

4. This information was brought to the notice of Makhan Singh, Senior Superintendent of Police (SSP), Special Narcotic Cell, Punjab, Amritsar. PW-1 collected old photographs of Paramjit Singh @ Pamma (A-1) from the record of Narcotic Cell.

5. The investigating officer proceeded towards the spot on the directions of Senior Superintendent of Police, Narcotic Cell and supervision of Jasbir Singh, Inspector of Special Narcotic Cell. A raiding party was organized and all the members of police party were briefed about the specific information. They went to the spot in official mini bus and reached near premises of the Bank.

6. A-1 was found sitting on motorcycle No. PB-46-8897, make Bajaj Pulsar of black colour and he tried to kick start his motorcycle. The other accused, namely; Resham Singh (A-2) started walking swiftly towards Sultanwind village. The investigating officer apprehended both the appellants with the assistance of members of his party. PW-1 introduced himself to the accused persons and expressed his suspicion against the appellants for being in possession of some intoxicating substance and that search of their bag and motorcycle was to be conducted. The appellants were apprised of their right to be searched before a gazetted officer or a Magistrate. Appellants wanted the search to be made in the presence of a gazetted officer. In respect of these proceedings separate memos with regard to offer made to both the appellants Ex. PA and Ex. PB were prepared signed by the appellants and attested by other members of police party.

7. PW-1 SI Harwinderpal Singh gave message on his mobile phone to DSP Special Narcotic Cell to reach the spot. In the meanwhile, pedestrians walking on the road were requested to associate the police party after informing them about the facts of the case. After a great effort two of the members of public, namely; Sanjeev Kumar and Gurmukh Singh, who were present in the

locality for their personal work, agreed to become witnesses in the proceedings.

8. After about 20-25 minutes, PW-2 Raj Pal Singh, DSP, Special Narcotic Cell, Punjab, Amritsar reached there and he was briefed about the facts and circumstances and that two of the members of public have already been associated.

9. PW-2 Raj Pal Singh, DSP, who was in his uniform, introduced himself to the accused persons that he was DSP posted in the Special Narcotic Cell and a gazetted officer. The appellants were informed that the bags held by them and the motorcycle are suspected to be containing some intoxicating substance and that PW-2 has been called to reach the spot for effecting search. Still PW-2 informed the accused persons of their legal right as to whether they want their search to be made in the presence of PW-2 or any other gazetted officer or a Magistrate. The appellants reposed confidence in PW-2 and their consent memos Ex. PC and Ex. PD were reduced into writing which were signed by both the appellants and attested by PW-5 SI Dalbir Singh and both the independent witnesses. These memos were prepared under the signatures of PW-2 Raj Pal Singh DSP.

10. Under the supervision of PW-2, the search of A-1 was first conducted. A bag of black colour was hanging around the neck of A-1. This bag was found containing four packets of heroin. One packet was bearing the round stamp of "*Manzoor Pharmacy Charrahi Pagman*" featuring lion and also figure 99 was written. Two other packets featuring lion were bearing blue coloured oval shaped seal and some words inscribed in Urdu were written. The

