

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-S-492-SB-2013
Date of decision: 29.07.2015

Jaswinder Kaur

...Appellant

Vs.

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE RAJ RAHUL GARG

Present : Mr. Sanjay Gupta, Advocate for the appellant.

Mr. Surjeet Singh Chaudhary, DAG, Punjab.

Raj Rahul Garg, J.

Jaswinder Kaur wife of Baljinder Singh assailed the judgment of conviction dated 01.12.2013 and order on sentence of even date rendered by Sh. J. S. Bhinder, Judge, Special Court, Hoshiarpur whereby the appellant-accused was convicted for keeping 20 KG of poppy husk and thereby committing offence punishable under Section 15 of Narcotic Drugs and Psychotropic Substances Act (hereinafter referred to as 'NDPS Act') and sentenced to undergo RI for a period of 1 year and 6 months and to pay a fine of Rs. 5,000/-. In default of payment of fine to further undergo RI for two months.

At the very outset, learned counsel for the appellant-accused stated that he does not contest the findings recorded by the learned trial court on merits of the case stating that he would feel satisfied if the sentence of Jaswinder Kaur, appellant-accused, is reduced to the one already undergone as she has already suffered a lot.

Under the above mentioned circumstances, I need not mention the

detailed facts of the case as the same have already been mentioned in the judgment of the learned trial court. Tersely, as per prosecution case, on 03.08.2009 at about 6.00 PM, SI Bikramjit Singh who was present at T point Chotala turning of village Goraya along with police officials and lady Constable Jaswinder Kaur stopped one motorcycle being driven by a man whereas three ladies were sitting on the pillion of the motorcycle. That motorcycle was coming from village Taggar Badala side and was bearing No. PB-07-U-7176 make Hero Honda. The lady who was sitting in between the aforementioned three ladies was having one plastic bag. The driver of the motorcycle immediately tried to run away. HC Karamjit Singh called him by name as Jaswant Singh. However, He did not stop the motorcycle and ran away along with aforesaid motorcycle. HC Karamjit Singh told the Investigating Officer about the name of the driver of motorcycle as Jaswant Singh @ Jassa resident of village Chotala and thereafter Investigating Officer inquired about the names and addresses of the aforesaid three ladies. Under these circumstances, aforesaid ladies gave their names and parentage as well their addresses. Thereafter, Investigating Officer following the due procedure of law recovered 20 KG of poppy husk from the bag held by accused-appellant. Two samples of 250 Grams each were separated whereas the remainder was separately sealed with the seal 'BS' and 'JS'. Thereafter, obtaining report of Chemical Examiner that the contents of the samples were that of poppy husk, the Challan was presented against all the four accused namely Ramandeep Kuar daughter of Baljinder Singh, Jaswinder Kaur appellant-accused, Mandeep Kaur daughter of Baljinder Singh and Jaswant Singh alias Jassa son of Major Singh. They were also charge-sheeted accordingly for committing offence punishable under Section 15 of the NDPS Act.

After trial and hearing counsel for the parties, the learned trial court recorded the finding of acquittal against accused Ramandeep Kaur and Mandeep Kaur as SI Karamjit Singh, Investigating Officer of the case, clearly stated in cross-examination that no recovery was effected from accused Ramandeep Kaur and Mandeep Kaur. However, Jaswant Singh and accused-appellant Jaswinder Kaur were convicted for committing offence punishable under Section 15 of the NDPS Act.

I have heard learned counsel Mr. Sanjay Gupta, Advocate for Jaswinder Kaur appellant-accused and Mr. Surjeet Singh Chaudhary, DAG, Punjab, for the state of Punjab besides appraising the entire material coming on record.

Learned counsel for the accused-appellant contended that he does not contest the findings recorded by the learned trial court on merits and thus not challenging the conviction on merits. He would feel satisfied if the sentence of appellant accused is reduced to the one already undergone. Accused-appellant has already suffered a lot as this criminal trial is hanging on her head like Damocle's Sword for more than 5 years. She is a lady of the age of 50 years. She has two daughters of marriageable age. She has already undergone five and a half months of sentence. No other offence is against her. It was her first offence. In fact she has been implicated falsely in this case. Learned counsel for the state, however, opposed the reduction in sentence.

I have considered the contentions raised by learned counsel for the parties and of the view that the ends of justice would be met if sentence of accused-appellant is reduced to the one already undergone. It is a case in which the police has implicated all the four persons allegedly riding on a motorcycle.

They were not apprehended at the spot as HC Karamjit Singh was knowing

Jaswant Singh, driver of the motorcycle, therefore, later on he along with other three ladies including accused-appellant Jaswinder Kaur were implicated in this case. Though, Investigating Officer of this case deposed that nothing was recovered from the possession of accused Ramandeep Kaur and Mandeep Kaur who also faced trial along with accused-appellant and Jaswant Singh; yet they were also kept as accused in this case. Accused-appellant is a middle aged lady having daughters of marriageable age at home. It is very difficult to leave marriageable daughters at home alone. As the presence of mother is very much required at home for their care and protection and further taking into consideration that the accused-appellant is not involved in any case either before the present offence or thereafter, therefore, finding it a fit case wherein sentence awarded to the accused-appellant can be reduced to one already undergone. So is ordered, accordingly. The impugned judgment of conviction dated 01.12.2013 and order on sentence of even date including default clause stand affirmed with the modification as indicated above. However, appellant is directed to deposit the fine forthwith failing which she will be taken in custody for undergoing the default imprisonment for a period of 2 months as awarded by the learned trial court.

With the observations made above, the present appeal is disposed of.

(RAJ RAHUL GARG)
JUDGE

29.07.2015

Waseem