

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Misc. No. 2676 of 2015 in/and
Crl. Appeal No.S-369-SB of 2015
Date of Decision:-10.03.2015

State (U.T. Chandigarh)

...Appellant

Versus

Dharam Dev son of Yogeshwar, resident of Jhuggi
No.259, Shahpur Colony, Sector 38-West, Chandigarh

...Respondent

CORAM: HON'BLE MR. JUSTICE HARI PAL VERMA

Present:- Mr. Amandeep Singh Gill, Advocate for the appellant.

HARI PAL VERMA J.

Appellant has filed the present criminal appeal against the judgment and order dated 19.08.2014 passed by Judge Special Court, Chandigarh, whereby, the respondent-convict was sentenced under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as "the NDPS Act") of rigorous imprisonment for a period of 9 months and to pay a fine of Rs.5,000/- and in default of payment of fine to undergo further rigorous imprisonment for one month. Appellant has sought enhancement of the sentence.

Briefly stated, on 23.02.2008, PW-1 Sub Inspector Rajinder Pal along with other police officials was present at Dadu Majra Colony Chowk in connection with patrol duty and checking suspicious persons. At about 4:00 P.M., the respondent-convict was spotted coming from the side of Shahpur Colony. On suspicion S.I. Rajinder Pal checked the plastic bag being carried by the accused and it was found to be containing Ganja wrapped in a glazed envelope. On weighing it, 9 kg. Ganja was found in the bag. The respondent-accused could not

produce any licence or permit for possessing the Ganja. He was arrested and produced in Court on 24.02.2008. Two samples of 500 grams each were separated from the Ganja recovered from the possession of respondent-accused and were converted into sample parcels which were sealed by S.I. Rajinder Pal with the seal of 'RP'. The remaining 8 Kg Ganja recovered from the possession of accused was also converted into a separate parcel and was similarly sealed and the entire case property was taken into possession vide recovery memo Ex.PA. Ruqa Ex.PB was sent to the police station through constable Mohinder Singh No. 3209 and on the basis thereof FIR Ex.PC was registered under Section 20 of the NDPS Act. The respondent-accused was arrested and after completion of necessary formalities of investigation, the challan was presented in the Court. On presentation of challan copy of challan was supplied to the accused and charge was framed against the respondent-accused under Section 20 of the NDPS Act.

Learned trial Court on the basis of evidence held the respondent-accused guilty for committing an offence under Section 20 of the NDPS Act and convicted thereunder.

However, as regards to quantum of sentence, the learned Special Court, Chandigarh sentenced the respondent-accused to undergo rigorous imprisonment for a period of 9 months and to pay a fine of Rs.5,000/- and in default of payment of fine to undergo further rigorous imprisonment for one month under Section 20 of the NDPS Act.

Learned counsel for the appellant though has not pointed out any infirmity in the order of conviction passed by learned trial Court but he has questioned the inadequate punishment fasten upon

the respondent-accused. He argued that the respondent-accused was found in possession of 9 kg. of Ganja and, therefore, the sentence of 09 months and to pay a fine of Rs.5,000/- is inadequate and not commensurate to his guilt. He further argued that considering the possession of Ganja, the accused was required to be convicted for higher sentence and award of sentence for 09 months amounts to frustrate the very purpose of enacting the NDPS Act.

Now, the short question which arises for consideration is whether the finding of the learned trial Court and conviction on the basis thereof called for any interference or not?

The learned counsel for the appellant has not raised any objection with regard to the quantity found in possession of the respondent-accused and the only challenge is inadequacy of sentence.

I have considered the argument raised by learned counsel for the appellant and found that no interference in the sentence awarded by the Special Court, Chandigarh, is warranted. The Court below has considered the quantity of recovery of Ganja and has accordingly convicted and sentenced the accused. Moreover, the quantity of 9 kg Ganja does not fall in the category of commercial quantity. Furthermore, no such fact has been brought to the notice of this Court that the respondent-accused has previously been convicted for such like offence.

Accordingly, I find no merit in the present criminal appeal and the same does not warrant any interference of this Court.

Consequently, the present criminal appeal is without any merit and is dismissed.

10.03.2015
Anjal

(HARI PAL VERMA)
JUDGE