

In the High Court of Punjab and Haryana at Chandigarh

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Criminal Revision No.2906 of 2015 (O&M)

.....

Date of decision:17.8.2015

Amritpal Singh

...Petitioner

v.

State through District Drugs Inspector

Respondent

....

Coram: Hon'ble Mr. Justice Inderjit Singh

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Present: Mr. Kunal Siag, Advocate for the petitioner.

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Inderjit Singh, J.

The petitioner has filed this criminal revision petition under Section 401 Cr.P.C. challenging the impugned judgment dated 28.7.2015 passed by the learned Additional Sessions Judge, Sri Muktsar Sahib, dismissing the appeal filed against the impugned judgment of conviction and order of sentence dated 5.8.2014 passed by the learned Chief Judicial Magistrate, Sri Muktsar Sahib, in a complaint filed under Sections 18(c) and 18-A punishable under Sections 27(b)(ii) and 28 respectively of Drugs and Cosmetics Act, 1940 (hereinafter referred to as 'the Act'), convicting the petitioner for the offences under Sections 27(b)(ii) and 28 of the Act and sentencing him to undergo rigorous imprisonment for two years and to pay a fine of ₹5,000/- and in default of payment of fine to further undergo rigorous imprisonment for two months for the offence under Section 27(b)

(ii) of the Act. He has been further sentenced to undergo rigorous imprisonment for six months and to pay a fine of ₹500/- and in default of payment of fine to further undergo rigorous imprisonment for ten days for the offence under Section 28 of the Act. However, both the sentences have been ordered to run concurrently.

I have heard learned counsel for the petitioner and have gone through the record.

The brief facts of the case are that state complaint through District Drug Inspector against Amritpal Singh accused has been filed for the offences under Sections 18(c) and 18-A punishable under Section 27(b) (ii) and 27 respectively of the Act. As per the complainant's version, Gurbinder Singh, the then Drug Inspector has been appointed as Inspector under Section 21 of the Act by the Punjab Government and on 18.11.2008, he inspected the premises of M/s Sidhu Medical Store situated at VPO Tarnala, Tehsil Malout, District Sri Muktsar Sahib, where Amritpal Singh was present as In-charge of the premises and he was found stocking allopathic drugs for sale and distribution and was also asked to disclose the source of acquisition of allopathic drugs stocked by him for sale and distribution, but he failed to produce the same. Gurbinder Singh seized nine types of allopathic drugs on Form-16 in presence of Amritpal Singh. He also prepared the spot memo. Necessary custody orders for the seizure required under Section 23(5)(b) of the Act were obtained, registered letters were sent to Amritpal Singh to produce any valid drugs sale licence and also to disclose the name, address and other particulars of the firm from whom

he acquired the seized drugs, but the same were received back undelivered with the report that he had gone out.

On summoning, the accused/petitioner appeared and pleaded not guilty and claimed trial.

The complainant examined Gurbinder Singh, Drug Inspector/ Zonal Assessing Authority, Jalandhar as PW-1, Ishwar Chander, Dealing Clerk in the office of Civil Surgeon as PW-2, Lakhwant Singh, Zonal Licensing Authority as PW-3 and then Drug Inspector and closed the evidence.

The accused examined Devinder Singh as DW-1, who mainly deposed that he knew accused present in the Court. He is resident of Village Tarmala. He is not having any Chemist shop in their village and he has been falsely implicated in this case.

The learned Chief Judicial Magistrate, Sri Muktsar Sahib, vide impugned judgment and order dated 5.8.2014 convicted and sentenced the accused for the offences as mentioned above. Aggrieved against this judgment and order, the petitioner filed appeal, which was dismissed by the learned Additional Sessions Judge, Sri Muktsar Sahib and conviction and sentence have been upheld. Aggrieved from these judgments, the present revision petition has been filed.

At the time of arguments, learned counsel for the petitioner argued that he has been falsely implicated in the present case. The complainant has not proved the licence of M/s Sidhu Medical Store by producing his evidence. It is also argued that the case of the prosecution

has not been duly proved and letters/notices were also not delivered to the petitioner.

After going through the record, and after hearing learned counsel for the petitioner, I find that it is a revision petition and in the revision petition the Court is not to re-appreciate the evidence like the Court of appeal. First of all, from the record I find that nothing has been pointed out which evidence has been misread by the Courts below and as to how the findings given by the Courts below are illegal, perverse or some material evidence has not been discussed or the evidence has not been discussed in the right perspective.

Nothing has been shown as to how the findings are illegal or against the law. The Drug Inspector on raid had found the present accused/petitioner as In-charge of M/s Sidhu Medical Store in Village Tamala. The allopathic drugs had been found in the shop. The complainant has also produced the Clerk from the Licensing Authority, who had deposed that no licence has been issued in favour of M/s Sidhu Medical Store. It is for the accused/petitioner, who was In-charge of the premises to prove that he was selling the allopathic drugs under a valid licence issued by the competent authority, but it is no where the case of the present revision petitioner that he was having valid licence. The prosecution has examined Drug Inspector Gurbinder Singh as PW-1 in the Court, who has identified the petitioner and deposed that he is the same person who was found being In-charge of the premises of M/s Sidhu Medical Store. The notices were sent to the revision petitioner, which were received back undelivered. Even till now, it is not

the case of the petitioner that he was having a valid licence or he was maintaining the record from where he had purchased these allopathic drugs or medicine.

As regards the independent witness, there is no evidence that Drug Inspector has any enmity or motive against the revision petitioner to falsely implicate him and, therefore, there is no ground to disbelieve his statement. The statement of PW-1 Gurbinder Singh, Drug Inspector is duly supported and corroborated by documentary evidence.

Therefore, from the record, I find that the findings given by the Courts below are correct, as per law and do not require any interference from this Court as the same have been given with sound reasoning and the same are upheld.

Finding no merit in the present criminal revision petition, the same is dismissed.

August 17, 2015.

(Inderjit Singh)
Judge

hsp