

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA No.S-1590-SB of 2004
Date of Order: 22.09.2016

Sheelo wife of Ajaib Singh

..Appellant

Versus

State of Punjab

..Respondent

CORAM: HON'BLE MR. JUSTICE A.B.CHAUDHARI

Present: None for the appellant.

Ms. Rimplejit Kaur, AAG, Punjab.

A.B.CHAUDHARI, J. (Oral)

Being aggrieved by the judgment and order dated 30.07.2004, passed in sessions case No.403, dated 12.12.2002, by which the appellant-Sheelo wife of Ajaib Singh was convicted for the offence punishable under Section 15(b) of The Narcotic Drugs and Psychotropic Substances Act, 1985 (in short, the NDPS Act) and was sentenced to undergo rigorous imprisonment for a period of three years and was ordered to pay fine in the sum of Rs.25,000/-, in default to undergo further rigorous imprisonment for a period of six months, the present appeal was filed by her in this Court.

Neither the appellant nor her counsel has put in appearance on behalf of the appellant.

In the light of the decision of the Hon'ble Supreme Court in **K.S.Panduranga v. State of Karnataka, 2013(2) R.C.R.**

(Criminal), 219, this Court proceeds to decide the appeal on merits

in the absence of the appellant or her counsel.

Per contra learned counsel for the State has vehemently opposed this appeal.

I have perused the reasons given by the learned trial Judge.

I have gone through the judgment and order so also the reasons given by the trial Judge for recording order of conviction. The incident is stated to have taken place on 18.08.2002 at about 3.30 P.M in village Daule Wala, when the police Sub Inspector Jasbir Singh had, while patrolling, found the appellant along with the plastic bag. On search, the appellant was found to be in possession of 25 Kgs of poppy straw without any permit. The only evidence that was raised by the appellant before the trial court was that the property was not properly sealed and mandatory provisions of Section 50 of the NDPS was not followed. The appellant alleged that there were several discrepancies in the evidence tendered by the prosecution and, therefore, the appellant was entitled to be acquitted in view of the discrepancies.

Insofar as the reasons given by the trial court as to the conviction recorded under Section 15(b) of the NDPS Act, I find that the findings of fact recorded by the trial Judge is based on evidence and there cannot be faltered the grounds raised in the appeal about the inconsistency in the prosecution evidence is without any substance.

The ground regarding non-examination of independent witness Geja Singh is also without any merit since the prosecution

duly proved the seizure of the contraband from the appellant.

In that view of the matter, I have no hesitation in confirming the findings of conviction recorded by the learned trial Judge, under Section 15(b) of the NDPS Act, 1985.

The next question is about the award of sentence to the appellant by the trial Court. The learned trial Judge awarded the sentence of rigorous imprisonment for a period of three years and fine of Rs.25,000/-, in default to undergo further rigorous imprisonment for a period of six months.

It is not in dispute that the appellant has four daughters only and she is the only bread winner of the family. Her husband is drug addict and not earning for the family.

The appellant has undergone the sentence of about three months and three days. Admittedly, the offence related to the non-commercial quantity. The offence is alleged to have taken place on 18.08.2002.

Number of years have passed after the conviction of the said offence. It would be too harsh at such late stage now to push her again in the jail and, therefore, I think the order of sentence should be modified to the sentence as she has already undergone. In the result, I make the following order:

ORDER

- (i) CRA No.S-1590-SB of 2004 is partly allowed.
- (ii) The impugned judgment, dated 30.07.2004 and order of conviction, dated 31.07.2004, made by Special Judge, Moga, convicting the appellant under Section 15(b) of the

NDPS Act, 1985, is confirmed.

- (iii) However, the sentence of rigorous imprisonment for a period of three years with fine awarded to the appellant is modified to the sentence the appellant has already undergone.

The appeal is disposed of accordingly.

September 22, 2016
nt/pankaj

(A.B.CHAUDHARI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No