

CRA-S-2023-SB of 2004 (O&M)

**313 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRA-S-2023-SB of 2004 (O&M)
Date of Decision: 04.11.2016**

Major Singh

...Appellant

versus

State of Punjab

....Respondent

CORAM : HON'BLE MR. JUSTICE AJAY TEWARI

Present: Mr. Karminder Singh, Advocate for the appellant.

Mr. K.D. Sachdeva, Addl. A.G, Punjab.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the concurrent conviction of the appellant for the commission of offences under Section 18 of the NDPS Act in FIR No.72 dated 06.11.2000 registered at Police Station Cantt. Ferozepur.

The sentence awarded to the appellant is as under:-

Sentence under Section	Imprisonment awarded	Fine	In default of payment of fine
Under Section 18 of NDPS Act.	R.I. for five years.	Rs.10,000/-	R.I. for six months.

As per the allegations, 02 kg. Opium was recovered from

the appellant.

Learned counsel for the appellant has argued that false recovery was imposed on the appellant and no public witness was associated .

Learned DAG states that though it is true that no public witness was associated but there is a catena of judgments which has led down that the absence of a public witness would not vitiate the seizure.

The second argument by learned counsel for the appellant is that the appellant himself was the victim because there was enmity with the area DSP and false recovery was foisted upon the appellant.

Learned DAG has countered this by arguing that no positive evidence of any animosity was led.

Custody certificate by way of affidavit of Ajmer Singh, Superintendent, Central Jail, Ferozepur on behalf of State has been filed and the same is taken on record. Copy supplied to the counsel opposite. As per the custody certificate the appellant has undergone actual sentence of 08 months and 14 days out of the total sentence of 05 years and no other case is pending against him and has not been convicted in

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any other case.

Learned counsel for the appellant states that the appellant has been facing the agony of these proceedings for the last almost 16-17 years.

In my considered opinion, these factors would justify a reduction in the sentence. Consequently, the appeal against the conviction is dismissed but the sentence of the appellant is reduced to one year.

Let the appellant be arrested forthwith to serve the remaining sentence.

Appeal stands disposed of.

Since the main case has been decided, the Criminal Misc. Application, if any, also stands disposed of.

(AJAY TEWARI)
JUDGE

November 04, 2016
anuradha

Whether speaking/reasoned

Yes/No

Whether Reportable :

Yes/No

Note: This order has been corrected/modified/deleted vide order dated 16.11.2016 passed in CRA-S-2023-SB-2004.