

**IN THE HIGH COURT FOR THE STATES OF PUNJAB &  
HARYANA AT CHANDIGARH.**

CRA-S-1046-SB-2016

Date of decision: May 13, 2016

Ram Kumar Puri

...Appellant

Versus

State of Haryana

...Respondent

**CORAM: HON'BLE MR. JUSTICE RAJAN GUPTA**

Present: Mr. R.S. Tacoria, Advocate for the appellant.

Ms. Tanushree, Deputy Advocate General, Haryana.

**Rajan Gupta, J.**

This is an appeal against the judgment of conviction dated 25.2.2016 and order of sentence dated 29.2.2016, delivered by Special Court, Kurukshetra. The trial court after recording the prosecution evidence, came to the conclusion that the accused/appellant was guilty of possession of contraband (i.e. 06 Kgs. of poppy straw). The accused was convicted under Section 15 of the Narcotic Drugs & Psychotropic Substances Act, 1985 (hereinafter referred to be as "NDPS Act") and sentenced to undergo rigorous imprisonment of one year and to pay a fine of Rs.5000/-.

Feeling aggrieved against the judgment of the trial court, the appellant has approached this court through the instant appeal.

Learned counsel for the appellant states that he is limiting his prayer only to the extent of reduction in the sentence awarded and does not assail the judgment of conviction. Learned counsel has

submitted that the appellant is a poor person and is only bread winner of his family. He has further submitted that the appellant is first offender and is not involved in any other case. According to him, in the present case the quantity of contraband (poppy straw) recovered from the possession of the appellant is much below the commercial quantity. Learned counsel, therefore, prays that keeping in view the fact that the appellant has to support his family and the quantity of contraband recovered from him is much below the commercial quantity, the sentence be reduced to the period already undergone by him.

Learned State counsel submits that in case conviction of the appellant is maintained, the court may reduce the sentence as deemed appropriate in the circumstances of the case.

I have heard learned counsel for both the parties.

Briefly, the prosecution case runs thus:

On 11.9.2013, a police party headed by ASI Abhey Ram had intercepted accused Ram Kumar (petitioner herein) at T-point Harigarh Bhorakh, Village Bodha when he was going on a motor cycle having a bag with him. On search of bag, he was found in possession of 6 kilograms of poppy straw. All formalities were conducted by the investigating officer at the spot. During investigation disclosure statement of accused Ram Kumar was recorded wherein he stated that he had purchased the contraband from Bhutto son of Dal Singh of village Bodni. Then accused Dharam Singh alias Bhutto was also arrested in the instant case. After completion of investigation, the

accused was sent up for trial.

Finding a prima facie case under Section 15 of the NDPS Act, accused Ram Kumar Puri was charged-sheeted, whereas accused Dharam Singh alias Bhutto was charge-sheeted under section 29 of the NDPS Act. Both of them pleaded not guilty and claimed trial.

To substantiate its case against the accused/appellant the prosecution examined as many as twelve witnesses.

The statements of accused under Section 313 Cr.P.C. were recorded, wherein the incriminating evidence available on record was put to them. They refuted the incriminating circumstances and pleaded false implication. They did not examine any witness in their defence.

On the basis of the evidence on record, the learned trial court held the appellant Ram Kumar Puri guilty of the charge framed against him and sentenced him as already indicated above, whereas accused Dharam Singh alias Bhutto was acquitted.

On a perusal of the impugned judgment as well as trial court record, I am of the considered view that the trial court has rightly appreciated the evidence on record while holding the appellant guilty of the charge framed against him. There is no infirmity or illegality in the findings given by the court below. The conviction of the appellant is, thus, affirmed.

Even counsel for the appellant, during the course of arguments, has not assailed the judgment of conviction. He has, however, pleaded for reduction in the quantum of sentence on the

ground that the appellant is a poor person and has to support his family.

Keeping in view facts and circumstances of the case, as also the fact that the appellant has to support his family, I deem it fit to reduce his substantive sentence to the period already undergone by him. However, the fine imposed by the trial court shall remain intact. Ordered accordingly.

Except with the modification in the quantum of sentence, as indicated hereinabove, the appeal stands dismissed.

May 13, 2016  
'Rajpal'

**(RAJAN GUPTA)**  
**JUDGE**