

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Appeal No.S-1397-SB of 2016 (O&M)

Date of Decision: May 17, 2016

Satpal Singh alias Satti

...Appellant

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.L.S.Sekhon, Advocate
for the appellant.

Mr.P.S.Grewal,Deputy Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

The present appeal has been filed by the appellant against the judgment of conviction and order of sentence dated 31.03.2016 passed by learned Judge, Special Court, Sangrur, whereby the appellant was held guilty and convicted and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of ₹2,000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of three months under Section 22(a) of the NDPS Act.

The brief facts of the prosecution case as noted down in the judgment passed by learned Judge, Special Court, Ludhiana, are as under:-

“The story of the prosecution against aforesaid accused is

that on 7.7.2012, at about 3.30 PM, ASI Nirmal Singh along with other police officials apprehended the accused, while coming on a scooter alongwith a polythene bag, near White House, City Ahmedgarh. At the sight of the police, he tried to turn his scooter towards his left hand but was caught by the Investigating Officer with the help of the police officials. He disclosed his name as Satpal Singh @ Satti. Thereafter, the Investigating Officer disclosed his identity to him. He also conveyed his desire of search as he was apprehending some intoxicant materials in his possession. He also apprised him of his legal right to get the search conducted from a Magistrate or Gazetted Officer but the accused reposed faith in him and his consent memo was prepared and was also signed by him. From the search of the bag, 5000 loose tablets were recovered. Two samples of 10 tablets each were drawn therefrom. Thereafter, remaining tablets and samples were converted into parcels. The Investigating Officer put his seal bearing impression "NS" on all the parcels. The sample seal was also prepared. Seal after use was entrusted to HC Jasvir Singh. All the case property was taken into possession vide seizure memo. Scooter bearing registration No.PB-10BA-6775 along with its RC was also taken into possession vide separate seizure memo. The accused could not produce any license or permit for keeping the said articles in his possession. Ruqa was written and sent to police station through HC Mohinder Singh for the registration of the case on the basis of which formal FIR was registered by MHC Major Singh. The accused was arrested and intimation regarding his arrest was sent. Arrest-cum-intimation memo was prepared. Report U/s 57 of the NDPS Act was also prepared and sent, on the same date, to the DSP. Rough site plan was drawn. Personal search of the accused was conducted vide separate memo. On return to police station, the accused and case property were produced before Incharge/ASI Ram Singh who verified the facts and on his satisfaction, he put his seal "RS" on the samples, bulk case property and thereafter deposited the case property with MHC."

After necessary investigation, challan was presented against the accused-appellant. On presentation of challan against accused-appellant, copies of challan and other documents were supplied to him under Section 207 Cr.P.C. Finding prima facie case,

the accused-appellant was charge-sheeted under Section 22 of the NDPS Act, to which he pleaded not guilty and claimed trial.

In support of its case, prosecution examined PW-1 Head Constable Jasvir Singh, PW-2 Munish Kumar, Civil Nazir, PW-3 Abdul Gaffar, PW-4 Head Constable Major Singh, PW-5 ASI Ram Singh, PW-6 Head Constable Charanjit Singh and PW-7 Head Constable Jaspal Singh.

At the close of prosecution evidence, the accused-appellant was examined under Section 313 Cr.P.C. He was confronted with the evidence of the prosecution and he denied the correctness of the evidence and pleaded himself as innocent.

No witness was examined in defence.

The learned trial Court, after appreciation of the evidence, convicted and sentenced the accused-appellant as stated above.

At the time of arguments, learned counsel for the appellant argued mainly on one point that no independent witness was joined by the police party and there are only testimonies of police officials, which cannot be believed. In the alternative, learned counsel for the appellant, prayed for reduction of sentence.

On the other hand, learned State counsel argued that case of the prosecution has been duly proved by the PWs. The PWs have consistently deposed regarding the prosecution version. Link evidence is complete. He further argued that all the mandatory provisions of the NDPS Act have been complied with. Learned State counsel, therefore, argued that there being no merit in the appeal, the same

should be dismissed.

After hearing learned counsel for the appellant as well as learned State counsel and after going through the record, I find that it is settled law that the testimony of police official is as good as of any other witness unless some enmity or motive of the police official to falsely implicate the accused is alleged and proved. In the present case, no such enmity of the police officials against the accused has been alleged. No defence evidence has been produced by the accused. The recovery from the accused is sudden and by chance. There was no opportunity with the police party to join the independent witness. No material contradictions or discrepancies have been pointed out in the statements of the PWs at the time of arguments. The PWs have consistently deposed regarding the prosecution version. Even, there is nothing in their cross-examinations, which may make their statements unreliable. All the mandatory provisions of the NDPS Act have been complied with. Link evidence is also complete.

In view of the above discussion, I find that the prosecution has duly proved its case by leading cogent evidence beyond reasonable doubt. Therefore, the judgment of conviction dated 31.03.2016 passed by learned Judge, Special Court, Sangrur, is correct, as per law and does not require any interference from this Court.

As regarding the alternative prayer for reducing the sentence, learned counsel for the appellant contended that appellant is first offender, only bread earner of the family and suffering from

criminal proceedings since 2012.

Keeping in view the facts and circumstances of the present case and in view of the fact that appellant is a poor person, only bread earner of the family and is suffering from long protracted criminal proceedings since 2012 i.e. for the last about 4 years and further in view of the fact that appellant has already undergone imprisonment of 6 months and 26 days out of the total sentence, the sentence imposed upon the appellant is reduced to the sentence already undergone by him. However, the sentence of fine and in default sentence will remain the same.

Accordingly, present criminal appeal stands partly allowed.

Appellant Satpal Singh alias Satti, who is in custody, be released forthwith, if his custody is not required in connection with any other case, subject to payment of fine, if already not paid.

May 17, 2016
Vgulati

(INDERJIT SINGH)
JUDGE