

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

117+348

**CRA-S-3085-SB-2010(O&M)
Decided on : 09.11.2016**

Gurdas Chand

....Appellant

Versus

State of Punjab

....Respondent

CORAM:HON'BLE MR. JUTICE AJAY TEWARI

Present: Mr. D.S.Sukarchakia, Advocate
for the appellant.

Mr. Ashish Sanghi, DAG, Punjab.

AJAY TEWARI, J.(oral)

This appeal has been filed against the conviction of the appellant under Section 20-61-85 of NDPS Act.

As per the allegations, on 13.07.2009 ASI Gurmej Singh received a secret information from Sub-Inspector Kunan Singh of the Counter Intelligence Circle Area, Gurdaspur that the appellant was coming from the side of Kalichpur on a scooter and was carrying charas with him and he was also running a business of selling charas in the area. Therefore, a naka was laid at about 06:30 p.m and the appellant was seen coming on the scooter

bearing No. PB-18E-5759 from the side of Kalichpur. He was given signal to stop. He stopped his scooter and immediately picked up one envelope in his foot and threw it on the kacha road. He was apprehended with 01 kg. 400 gm of charas in the envelope. After usual formalities trial was set up and he was awarded 10 years sentence and is before this Court against his conviction.

Learned counsel for the appellant has argued that the case of the appellant was that he was falsely implicated in this case. As per learned counsel for the appellant, even though naka was laid at about 06:30 p.m. SI Kunan Singh has stated that he had received secret information after sunset. Thus it is clear that first the arrest was made and then the secret information was received. Learned counsel for the appellant further pointed out that SI Kunan Singh had not written down secret information immediately as mandated that under Section 42 of the NDPS Act. According to the learned counsel for the appellant this was an elaborate scheme to implicate the appellant and has become unravelled only because of these anomalies. Learned counsel for the appellant has further pointed out that on the one hand it was informed that the appellant was running a business of selling charas in the area but on the other hand antecedents of

the appellant are clean and this fact is accepted by learned DAG. He further contends that NDPS Act has stringent provisions and consequently the evidence of the prosecution has to be gone through with a fine tooth comb under a spot light. As per him, it is not a case where Kunan Singh has stated that it was about 06:00 clock and could not take the secret information down in writing because of the urgency of the matter.

Learned DAG has not been able to contradict these factual assertions though he has tried to brush it away by saying that they are minor discrepancies.

In view of the facts of the present case, in my considered opinion, counsel for the appellant has been able to cast a reasonable doubt on the story of the prosecution and by granting the benefit to the appellant, I acquit him.

Consequently, this appeal is allowed and the judgment/order dated 18.10.2010 is set aside. Let the appellant be released forthwith.

November 09, 2016

anuradha

Whether speaking/reasoned

Whether Reportable :

(AJAY TEWARI)**JUDGE**

Yes/No

Yes/No