

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH
Sr. No.: 216

Criminal Appeal No.S-174-SB of 2016 (O & M)
Date of Decision: March 15, 2016

Balvir Singh @ Neela

..... APPELLANT

VERSUS

State of Punjab

..... RESPONDENT

...

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

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1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

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PRESENT: - Mr. S.S. Rana, Advocate, for the appellant.

Mr. Jaspreet Singh Sekhon, Assistant Advocate General,
Punjab.

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Jaspal Singh, J

Criminal Miscellaneous No.1370 of 2016

For reasons mentioned in the application, delay of 275 days in
filing the appeal is condoned.

Application stands allowed.

Criminal Appeal No.S-174-SB of 2016 (O & M)

1. The instant appeal is directed against judgment of conviction &
order of sentence dated February 12, 2015 passed in case FIR No.177 dated
December 8, 2012 under Section 22 of the Narcotics Drugs & Psychotropic

Substances Act, 1985, registered at Police Station, Ladhawal, Ludhiana, whereby the appellant has been convicted and sentenced to undergo RI for a period of 1 year & 6 months alongwith fine to the tune of ₹ 10,000/- and in default of payment of fine, to further undergo RI for three months.

2. As per the prosecution case, accused – appellant was found in conscious possession of 1100 tablets of Momolit, 100 capsules of Parvon Spas and 2 bottles of Rexcof Syrup without any permit or license, in the area of Hambran Chowk, Ludhiana. After completing necessary formalities, challan was presented and copies of documents were supplied to accused free of cost, in compliance of Section 207 Cr.P.C. Accused – appellant was chargesheeted under Section 22 of the Act to which he pleaded not guilty and claimed trial.

3. In endeavour to establish its case, prosecution examined as many as five witnesses. Incriminating circumstances appearing in prosecution evidence were put to accused in his statement under Section 313 Cr.P.C. wherein he denied all the allegations and pleaded false implication, however, he did not lead any evidence in defence.

4. After hearing learned counsel for the parties and perusing the record available on file, the Trial Court convicted and sentenced the accused, as detailed above, vide impugned judgment/ order.

5. Aggrieved by the aforesaid judgment of conviction and order of sentence, accused has preferred the instant appeal.

6. Learned counsel for the appellant submits that the judgment rendered by the trial court is against the law and contrary to the evidence produced on record, thus, the same cannot be legally sustained in the eyes of law and liable to be set aside. Moreover, no independent witness was joined at the time of recovery, though the recovery has been made from a busy road. There was delay in

sending the sample(s) for FSL report which is contrary to the mandatory provisions of the Act.

7. Per contra, learned State counsel submits that there is no infirmity in the judgment/order passed by the trial court. The findings given by the trial court are absolutely in consonance with the evidence/documents available on record and settled canons of law.

8. This Court has given deep thought to the aforesaid submissions made by learned counsel for the parties and have gone through the record.

9. Regarding delay in sending the sample(s), FSL Report (Ex.PX) reveals that samples reached to FSL in proper intact manner. Seals were found to be tallied with specimen seal impressions. The report of FSL and testimonies of PW-3 HC Baljit Singh revealed that there had been no tampering of samples at any stage of proceedings. Thus, the trial court rightly observed that it is for the accused to justify as to what prejudice, if any, has been caused to him in not delivering the sample within 72 hours to the office of FSL.

10. As regards non-joining of independent witness, joining of independent witness by the police is merely a rule of caution, however, the testimony of official witnesses is to be scrutinized carefully. In the present case, perusal of statements of the witnesses reveals that they have deposed consistently and inspire confidence. Thus, the contention of learned counsel for the appellant that no independent witness was joined, is of no legal weight.

11. In the light of what has been discussed above, there is no infirmity or illegality in the impugned judgment which stands upheld. Thus, this Court finds no merit in the instant appeal and the same is dismissed.

May 15, 2016
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(Jaspal Singh)
Judge