

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Appeal No.S-247-SB of 2016 (O&M)
Date of Decision: May 04, 2016

Chhinder Singh alias Shindu

...Appellant

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Rahish Pahwa, 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 03.12.2015 passed by learned Judge, Special Court, Ludhiana, whereby the appellant was held guilty and convicted and sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of ₹5,000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of two months under Section 15 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 prosecution story, in brief, is that on 26.05.2011 SI

Gurpreet Singh alongwith other police officials was going from Bhundri towards Satluj river bridge on official vehicle i.e. Zepsy No.PB-12-F-7085 in connection with patrolling and checking of bad elements. When the Police party reached behind 50 yards from the river a person was seen coming from the river. He was carrying a plastic bag on his head. On seeing police party, he threw the bag and ran away towards river. On suspicion, SI Gurpreet Singh with the help of other police officials apprehended the said person. On asking he disclosed his name as Chhinder Singh alias Shindu son of Jit Singh. When the police party reached near the gattu plastic bag, the mouth of gattu plastic was lying open and poppy husk had already come out from that bag. HC Satnam Singh was deputed by SI Gurpreet Singh to bring weight and scale and for arranging independent witness. At about 6.00 P.M. he came back with weight and scale and he disclosed to SI Gurpreet Singh that no body was ready to become independent witness. Then SI Gurpreet Singh took two samples of poppy husk weighing 100 grams each and the remaining on weightment , came to be 14 kg 800 grams. The above said case property was converted into three parcels and sealed by SI Gurpreet Singh with his seal bearing impression GS. Sample seal chits were prepared separately. Seal after use was handed over to HC Hardavinder Pal Singh. Ruqa was sent to the Police Station on the basis of which formal FIR was registered. Site plan of the place of recovery was prepared. Statements of witnesses were recorded. Accused was arrested in this case. On receipt of report of Chemical Examiner and after completion of necessary investigations, the challan under Section 15/61/85 of the Narcotic Drugs & Psychotropic Substances Act was prepared and presented in the Court.”

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 15 of the NDPS Act, to which he pleaded not guilty and claimed trial.

In support of its case, prosecution examined PW-1 ASI Hargurdev Singh, PW-2 Head Constable Harvinderpal Singh, recovery

witness, PW-3 SI Gurpreet Singh, Investigating Officer and PW-4 Head Constable Sanjiv Kumar.

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 and stated that nothing was recovered from him. He also pleaded that he was picked up from the house of his sister at village Khera Bet Hambran

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 police party was on patrolling and 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 03.12.2015 passed by learned Judge, Special Court, Ludhiana, 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 having three minor children and his wife and they are totally depended upon him. He further contended that appellant is first

offender and the recovery from the appellant falls under non-commercial quantity.

Keeping in view the facts and circumstances of the present case and in view of the fact that appellant is suffering from long protracted criminal proceedings since 2011 i.e. for the last about 5 years and further in view of the fact that appellant has already undergone imprisonment of three months and seven days out of the actual sentence and keeping in view the fact the recovery from the accused-appellant falls under non-commercial quantity i.e. 15 kgs. poppy husk, 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. The appellant is directed to pay the fine within one month from receiving the certified copy of the order, if already not paid, otherwise, the trial Court is directed to take necessary action as per law.

Accordingly, present criminal appeal stands partly allowed. Since, appellant Chhinder Singh @ Shindu is on bail, his bail/surety bonds stand discharged.

May 04, 2016
Vgulati

(INDERJIT SINGH)
JUDGE