

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

CRA No. S-2848-SB of 2014 (O&M)
DECIDED ON: APRIL 25, 2016

TARSEM KUMAR

.....APPELLANT

VERSUS

STATE OF HARYANA

....RESPONDENT

CORAM: HON'BLE MR. JUSTICE JASPAL SINGH

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?

Present: Mr. P.S. Jammu, Advocate
for the appellant.

Ms. Neelam Kashyap, DAG, Haryana

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JASPAL SINGH, J (ORAL)

Challenge in this appeal is to the judgment and order dated October 03, 2011 passed by learned Additional Sessions Judge, Sirsa-cum-Judge, Special Court, Sirsa (for short 'trial Court) qua confiscation of car bearing registration No. DL-3-CW-3807 owned by Tarsem Kumar-appellant.

2. Undisputably, Angrej Singh, Ranjit Singh and Parkash Singh were tried and convicted and sentenced in case FIR No. 119 dated May 22, 2010 under Section 15 of Narcotics Drug and Psychotropic Substances Act, 1985 (for short 'Act'). But a glance at the judgment/order dated October 03, 2011 transpires that no specific order with regard to confiscation of above-referred

car was made. The car in question was on superdari with its owner i.e. Tarsem Kumar-appellant who happened to move an application for obtaining the copy of registration certificate of car. During the pendency of said application, proceedings under Section 60(3) of the Act were initiated and just on the ground that appellant did not produce the car despite repeated orders passed by learned trial Court, it was ordered to be confiscated to the State and further a direction was issued to Station House Officer, Police Station City, Sirsa to dispose of the same as per rules vide order dated May 31, 2014 passed by learned trial Court. The order dated May 31, 2014 can be termed to be in-complete violation of mandatory provisions of the Act. Section 60(3) of the Act makes it obligatory upon the Court that in case learned Judge intends to confiscate the vehicle involved in a case, a notice under Section 60(3) of the Act is required to be issued. Rather, there was no intention unfolded by learned Judge at the time the accused were convicted in this case. So, for this short reason, the impugned order(s) especially order dated May 31, 2014 is not sustainable in the eyes of law and is liable to be set aside by way of acceptance of instant appeal.

3. However, the case is remitted to the Additional Sessions Judge, Sirsa to serve notice as required under the law upon the appellant and after hearing the appellant then to decide the matter with regard to confiscation of car in question. Since, the car in question is lying in the premises of Police Station, it would be desirable that proceedings be finalized by learned trial Court in this regard with a period of three months from the date of receipt of certified copy of this order.

APRIL 25, 2016
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(JASPAL SINGH)
JUDGE