

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Appeal No.S-3137-SB of 2015
Date of Decision: February 12, 2016

Lachhman Singh alias Lachha

...Appellant

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

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

Mr.Varun Sharma, Asstt. 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 02.07.2015 passed by learned Judge, Special Court, Sangrur, whereby he was held guilty and convicted and sentenced to undergo rigorous imprisonment for a period of 25 months and to pay a fine of ₹20,000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of five months under Section 15 of the NDPS Act.

The brief facts of the prosecution case are that on 27.06.2012, a police party headed by SI Surinder Pal Singh was going towards City Dhuri and when they reached near the gate of grain market, then the accused was seen coming on foot by carrying a bag

plastic on his head. On seeing the police party, he turned his back. On suspicion, he was apprehended. The accused was apprised of his legal right to get the search conducted in the presence of any Gazetted Officer or Magistrate but the accused reposed faith in the Investigating Officer Surinder Pal Singh. On search, as per rules, poppy husk was recovered from the plastic bag. Two samples of 250 grams each were separated and the remaining poppy husk, on weighment, came to 24 kgs. 500 grams. The sample parcels and bulk parcels were prepared and sealed with the seal bearing impression 'SS'. Case property was taken into police possession. Ruqa was sent to the police station, on the basis of which FIR was registered. Accused was arrested. Statements of witnesses were recorded. On return to the police station, case property was produced before Inspector Parminder Singh, who verified the recovery and also sealed the parcel with his seal bearing impression 'PS'. After necessary investigation, the 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 15 of the NDPS Act, to which he pleaded not guilty and claimed trial.

In support of its case, prosecution examined PW-1 SI Surinder Pal Singh, Investigating Officer, who deposed regarding investigation conducted by him in the present case. PW-2 Inspector

Parminder Singh, who was posted as SHO at that time, mainly deposed regarding verifying the case property and affixing his seal. PW-3 Majhan Singh, is the formal witness, who tendered into evidence his affidavit Ex.PW3/A. PW-4 Munish Kumar Bansal, Civil Nazir mainly deposed that on 02.07.2012, he handed over one sample parcel containing 250 grams poppy husk bearing seal impressions 'SS/PS' to Constable Gagandeep Singh for deposing the same in the office of Chemical Examiner, Kharar. PW-5 Constable Gagandeep Singh, is the formal witness, who tendered into evidence his affidavit Ex.PW5/A. PW-6 Head Constable Parminder Singh, is the recovery witness, who deposed regarding recovery from the accused and supported the prosecution version.

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 that no independent witness was joined by the police party and there are only testimonies of police officials, which cannot be believed. He further argued that there is delay of six days in sending the samples. He next argued that form No.29 was not filled at the spot. He further contended that present appeal should be allowed or

in the alternative, prayed that sentenced imposed upon the appellant be reduced.

On the other hand, learned State counsel argued that case of the prosecution has been duly proved by the PWs. Link evidence is complete. The PWs have consistently deposed regarding the prosecution version. There are no material contradictions or material improvements in the statements of the PWs. 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, 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, the accused-appellant has not alleged any enmity or motive against the police officials. The PWs have consistently deposed regarding the prosecution version and recovery of 25 kgs. of poppy husk from the accused-appellant. No material contradictions or material improvements have been pointed by learned learned counsel for the appellant in the statements of the PWs, which may go to the root of the case. All the mandatory provisions of the NDPS Act have been complied with. Link evidence is also complete. The cross-examination of the Investigating Officer show that form No.29 was filled at the spot. There is nothing on the record that form No.29 was not filled at the spot. The case property was deposited in the judicial Malkhana and the Civil Nazir attached to

the court of learned Civil Judge (Senior Division) has deposed that sample parcel was given by him on 02.07.2012 to PW-5 Constable Gagandeep Singh and there is nothing that sample was tampered with. The seal of the sample was found intact by the chemical examiner.

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 02.07.2015 passed by learned Judge, Special Court, Sangrur, is correct, as per evidence and law and does not require any interference from this Court.

Learned counsel for the appellant, prayed for lenient view and reduction of the sentence of the appellant. He contended that appellant was young man of 27 years at the time of occurrence and has also suffered a lot due to long criminal trial. He also contended that appellant is poor person and only bread earner of the family.

Keeping in view the facts and circumstances of the present case and in view of the fact that appellant is a poor person and only bread earner of the family and further the fact that the appellant is suffering from long protracted criminal proceedings and has already undergone about one year sentence out of the total sentence of 25 months, the sentence imposed upon the appellant is reduced to the sentence already undergone by him. Petitioner Lachhman Singh alias Lachha, 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.

Accordingly, present criminal appeal stands partly allowed.

February 12, 2016
Vgulati

(INDERJIT SINGH)
JUDGE