

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

CRA-S-4422-SB of 2014 (O&M)

Date of Decision: May 20, 2016.

Kulwinder Kaur @ Kindo

....Appellant

Versus

State of Punjab.

.....Respondent

CORAM: HON'BLE MR.JUSTICE RAJAN GUPTA

Present: Mr. S.S.Rana, Advocate, for the petitioner.

Mr.Shilesh Gupta, Addl.A.G.,Punjab

Rajan Gupta, J (Oral)

This is an appeal against the judgment of conviction and order of sentence dated 24.9.2014 delivered by Special Court, Jalandhar. The trial court after recording the prosecution evidence, came to the conclusion that the accused/appellant was guilty of possession of 100 grams of smack. The accused was convicted under Section 21 of Narcotic Drugs & Psychotropic Substances Act, 1985 and sentenced to undergo R.I for 4 years and to pay a fine of Rs.35,000/-.

Feeling aggrieved against the judgment of the trial court, the appellant has approached this court through the instant appeal.

Learned counsel for the appellant at the outset states that he is limiting his prayer only to the extent of reduction in the sentence awarded and does not assail the judgment of conviction. Learned counsel has submitted that the appellant is a poor lady and has already faced agony of protracted trial. Learned counsel, therefore, prays that keeping in view the fact that the appellant has to support her family and the sentence be

reduced to the period already undergone by her.

Learned State counsel on the other hand submits that in case conviction of appellant is maintained, the court may reduce the sentence as deemed appropriate in the circumstances of the case.

I have heard learned counsel for both the sides.

Briefly, the prosecution case runs thus:-

On 18.5.2011, while ASI-Dilbagh Singh and other police party were on patrolling duty, they received secret information that Kindi @ Kulwinder Kaur wife of Jaspal Chand resident of Jallowal Colony, Police Station, Kartarpur was running the business of selling smack and waiting for customer. On suspicion, said ASI with the help of other police officials including lady constable apprehended her, who disclosed her name as Kindi wife of Jaspal Chand. ASI apprised her about her legal right to get search of bag in the presence of some Gazetted Officer or a Magistrate but she reposed confidence in ASI-Dilbagh Singh. On search, smack was recovered, out of which two samples of 5 grams each of smack were separated and remaining bulk was parceled separately and sealed. Accused was arrested. After completion of investigation and on receipt of report of chemical examiner, the accused was sent up for trial.

Finding prima facie case under Section 21 of the NDPS Act, charge was framed against the accused/appellant to which she pleaded not guilty and claimed trial.

To substantiate its case against the accused, the prosecution examined as many as five witnesses.

The statement of the accused under Section 313 Cr.P.C was recorded, wherein all the incriminating evidence available on record was

put to her. She refuted the same and pleaded false implication. She did not examine any witness in her defence.

On the basis of evidence on record, learned trial court held the appellant guilty of the charge framed against her and sentenced her as already indicated above.

On perusal of the impugned judgment as well as trial court record, I am of the considered view that the trial court has rightly appreciated the evidence on record while holding the appellant guilty of the charge framed against her. There is no infirmity or illegality in the findings given by the court below. The conviction of the appellant is, thus, affirmed.

Even counsel for the appellant, during the course of arguments has not assailed the judgment of conviction. He has, however, pleaded for reduction in the quantum of sentence on the ground that the appellant is a poor lady and has already faced agony of protracted trial.

Learned State counsel submits that the appellant has undergone actual custody of 1 year and about 9 months.

Keeping in view the facts and circumstances of the case as also the fact that the appellant is a lady, I deem it fit to reduce her substantive sentence to a period already undergone. However, the fine imposed by the trial court shall remain intact. Ordered accordingly.

Except with modification in the quantum of sentence, as indicated herein above, the appeal stands dismissed.

(Rajan Gupta)
Judge

May 20, 2016.
BB