

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

Crl. Appeal No.S-4826-SB of 2015 (O&M)

Date of Decision: October 19, 2016

Manjeet Singh @ Ladi

...Appellant

VERSUS

State of Haryana

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Vikrant Pamboo, Advocate
for the appellant.

Mr.Vikramjit Singh, Addl. Advocate General, Haryana
for the respondent-State.

INDERJIT SINGH, J.

The present appeal has been filed by the appellant against State of Haryana, challenging the judgment of conviction dated 17.09.2015 and order of sentence dated 21.09.2015 passed by learned Addl. Sessions Judge, Ambala, whereby the appellant was held guilty and convicted and sentenced to undergo rigorous imprisonment for a period of two years and to pay fine of ₹10,000/- and in default of payment of fine, to undergo rigorous imprisonment for a period of three months under Section 21 of the NDPS Act.

The brief facts of the prosecution case as noted down in the judgment passed by learned Addl. Sessions Judge, Ambala, are as under:-

the complainant ASI Rajinder Kumar, wherein he had stated that on 02.08.2013 he alongwith other police officials was present at T-Point, Ghel Road, near Devi Nagar, Ambala City. In the meantime, he received a secret information that Manjit Singh is habitual of selling smack and he will come from the side of Hari Palace, Ambala City and if checking is conducted, he can be apprehended. On this information, he started checking and after some time, a person was seen coming from the side of Ambala City. On suspicion he was stopped and served with notice u/s 50 of the Act. He produced the accused and witnesses before the ACP and on search 7 gms. Smack was recovered from his possession. On the basis of this complaint, formal FIR of the present case was registered. During the investigation, accused was arrested and was taken into custody. After completion of necessary formalities of investigation report under section 173 Cr. P.C. was submitted against the accused for trial.”

After necessary investigation, 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 21 of the NDPS Act, to which he pleaded not guilty and claimed trial.

In support of its case, prosecution examined PW-1 Constable Samundar Singh, PW-2 ASI Ashok Kumar, PW-3 Constable Gurnam Singh, PW-4 SI Prem Chand, PW-5 ASI Bir Bhan, PW-6 Head Constable Karambir Singh, PW-7 DSP Maninder Singh, PW-8 Rajni, PW-9 ASI Rajinder Kumar and PW-10 SI Chander Parkash.

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 also pleaded that he has been falsely implicated.

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. 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 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 17.09.2015 passed by learned Addl. Sessions Judge, Ambala, 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 poor person, first offender, only bread earner of the family and the recovery from the appellant falls under non-commercial quantity and the appellant has undergone actual sentence of more than three months. He further contended that the appellant is suffering from the criminal proceedings since 2013.

Keeping in view the facts and circumstances of the present case and in view of the fact that appellant is poor person, first offender, only bread earner of the family and further in view of the fact that appellant has already undergone actual sentence of more than three months out of the total sentence as on 09.12.2015, the date when the sentence of the appellant was suspended during the pendency of the appeal and is suffering from long protracted criminal proceedings since 2013 i.e. for the last three years, and keeping in view the fact the recovery from the accused-appellant falls under non-commercial quantity i.e. 7 grams of smack, the sentence imposed upon the appellant is reduced to the sentence already undergone by him. However, the sentence of fine and in default thereof, shall 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 Manjeet Singh @ Ladi is on bail, his

bail/surety bonds stand discharged.

October 19, 2016
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No