

IN THE HIGH COURT OF PUNJAB AND HARYANA

AT CHANDIGARH

CRM-A-881-MA-2015 (O&M)

Date of decision: 12.01.2016

State of Haryana

.....Applicant

versus

Roop Singh

.....Respondent

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Ms.Supriya Arora, Addl.A.G. Haryana for the applicant

- 1. Whether Reporters of Local Newspapers 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?*

Kuldip Singh, J. (Oral)

This is an application for grant of leave to appeal against the judgment dated 14.10.2014, passed by the learned Judge, Special Court, Ambala, vide which, the accused-respondent was acquitted for an offence punishable under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'NDPS Act'). Along with this application, an application has been filed for condonation of delay of 119 days in filing the application for grant of leave to appeal. For the reasons mentioned in the application, delay in filing the application for grant of leave to appeal is condoned.

As per prosecution case, on 3.8.2013, a police party headed by ASI Vijay Kumar recovered 19 kg 500 grams of poppy husk including the weight of plastic bag from the accused, when the

accused was intercepted at a tipping point on the road coming from village Pasiالا side. Accused was coming on foot and was carrying a plastic bag which contained poppy husk.

I have heard learned Addl.A.G. Haryana for the appellant and have also carefully gone through the file.

The perusal of the judgment shows that the judgment of acquittal has been passed after recording sound reasoning. The learned Special Judge has found that there was a *Dhaba* at 500 meters distance and independent witnesses were available but nobody was even called from the said *Dhaba* to join the investigation. It was further found that there are material contradictions in the statements of prosecution witnesses, regarding as to whether any weighment machine was brought at the spot or the said electric weighment machine belonging to the government was already there? There are also contradictions about the place where the writing work was done. It was also found that FIR was registered after the preparation of recovery memo (Ex.P10) but the recovery memo bears FIR number. Thus, this remains unexplained as to how recovery memo prepared at the spot bears FIR number. Further though it is case of the prosecution that writing work was done at the spot where there were no computer/ laptop/printer but the statement of HC Surinder Singh (PW4) was found to be computerized. Further, it was found that in the notice under Section 50 of the NDPS Act (Ex.P7), 'LTI' was found written twice at point marked 'A' and one of the words 'LTI' appeared below thumb impressions. Therefore, it raised doubt in the mind of the Court as to whether the said notice was prepared at

the time of recovery or thumb impressions were already obtained on a blank paper. The lower Court has given the cogent reasoning for acquittal of the accused. The lower Court has taken one of the two possible views, which is supported by the strong reasoning. Therefore, there are no merits in the present application for grant of leave to appeal. The same is accordingly dismissed.

12.01.2016*gk***(Kuldip Singh)
Judge**