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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No. 1559 of 2016 (O/M)
Date of decision : 26.4.2016

Amandeep Singh

..... Petitioner

Versus

State of Punjab

..... Respondent

CORAM : HON'BLE MR. JUSTICE KULDIP SINGH

Present:- Mr. Manish Prabhaker, Advocate, for the petitioner.

1. Whether the Reporters of local newspaper may be allowed to see the judgment ?
 2. To be referred to the Reporter or not.
 3. Whether the judgment should be reported in the digest ?
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KULDIP SINGH J. (ORAL)

Impugned in the present revision is the order dated 30.3.2016, passed by the learned Judge, Special Court, Amritsar, vide which application filed by the prosecution for sending second sample was allowed and it was ordered that 5 grams sample of the contraband be sent to the office of Chemical Examiner, Kharar.

The facts of the case show that in this case, accused, namely, Jagtar Singh was arrested on 13.5.2013 and 300 grams of heroin was recovered from him, whereas accused Amandeep Singh alias Happy was arrested on 18.5.2013 and 250 grams of heroin was recovered from him. Two samples of 5 grams each were drawn from the respective recoveries and were sent to the office of Chemical Examiner, Kharar. The result of chemical analysis of sample parcel

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of recovered contraband made from accused Jagtar Singh was received. However, report relating to other sample parcel of contraband recovered from Amandeep Singh alias Happy was not received. The Chemical Examiner, Kharar, vide letter dated 4.7.2014, informed the SHO, Police Station Chatiwind that the docket has been recovered from the office room of Dr. Rajinder Pal Singh, but the sample parcels were not recovered. It shows that the same is apparently lost. Therefore, request for sending second sample has been made. The prosecution moved the application to this effect, which was allowed.

I have heard the learned counsel for the petitioner and have also carefully gone through the file.

The learned Judge, Special Court, Amritsar, considered the law on the point to hold that though ordinarily no application for re-testing/re-sampling is to be entertained, but in the present case, it can be allowed.

The learned counsel for the petitioner has referred to the authority of the Hon'ble Supreme Court in Thana Singh Versus Central Bureau of Narcotics, 2013 (1) RCR (Criminal) 861 as well as the authority of this Court in Karan Kakkar Versus State of U.T. Chandigarh, 2014 (4) RCR (Criminal) 159. Thana Singh's case (supra) has already been discussed by the learned Judge, Special Court, Amritsar. In none of the authorities, the sample was lost in

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the chemical laboratory. If the first sample is intact, ordinarily the Court cannot send the second sample for re-testing. However, when the first sample is lost in the laboratory, the Court is not powerless to send the second sample for testing. The objections regarding shelf life and delay in sending the sample are to be considered and decided after the conclusion of trial. There is no ground to interfere in the impugned order. Hence, the present revision is dismissed.

(KULDIP SINGH)
JUDGE

26.4.2016
sjks