

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No.832 of 2002

Judgment Reserved on : 23.9.2017

Judgment Delivered on : 6.11.2017

Ramsai, S/o Dhaniram, aged about 41 years, R/o Kaotin Tala, P.S. Korar,
District Kanker, Chhattisgarh

---- Appellant

versus

State of Chhattisgarh through P.S. Narayanpur, District Bastar, Chhattisgarh

--- Respondent

For Appellant	:	Ms. Sangeeta Mishra, Advocate
For Respondent/State	:	Shri Suryakant Mishra, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

C.A.V. JUDGMENT

1. This appeal is directed against the judgment dated 4.7.2002 passed in Special Case No.7 of 2002 by the Special Judge under the Narcotic Drugs and Psychotropic Substances Act, 1985 (henceforth 'the Act of 1985'), Bastar at Jagdalpur, whereby and whereunder the Learned Special Judge after holding the accused/Appellant guilty for possession of illicit contraband article Ganja convicted him under Section 20(b)(ii)(B) of the Act of 1985 and sentenced to undergo rigorous imprisonment for 2 years and to pay fine of Rs.5,000/- with default stipulation.
2. The prosecution story, in brief, is that on 28.1.2002 at about 12:15 p.m., Assistant Sub-Inspector Vinod Singh (PW4) received information that one person was waiting for a bus at the bus stand. He was carrying a radio and a bag containing Ganja and was

waiting for the bus. Information was recorded vide panchnama (Ex.P5). He proceeded for the spot along with police force. The Appellant was found at the spot with one bag and one radio. A search was conducted and the Appellant was found in possession of 3.500 Kgs. Ganja. The Ganja was examined, weighed and thereafter seized vide Ex.P16. Two samples each containing of 25 Grams of Ganja were also prepared for chemical examination. Dehati Nalishi was prepared vide Ex.P26. Thereafter, he returned to the police station with the Appellant and the seized Ganja and registered First Information Report (Ex.P27). Seized Ganja and sample packets were handed over to the Moharrir of Malkhana and an acknowledgment (Ex.P1) thereof was obtained. Sample packets were sent for chemical examination vide Ex.P31. Report (Ex.P34) of Forensic Science Laboratory was received in which the samples sent for chemical examination were confirmed to be Ganja. After completion of the investigation, a charge-sheet was filed against the Appellant under Section 20(b) of the Act of 1985. Charge was framed against him under Section 20(b)(i) of the Act of 1985.

3. In order to prove the guilt of the accused/Appellant, the prosecution examined as many as 4 witnesses in support of its case. Statement of the accused under Section 313 Cr.P.C. was also recorded in which he denied the circumstances appearing against him. He claimed to be innocent and pleaded false implication in the case.
4. After trial, the Trial Court convicted and sentenced the Appellant as mentioned in the first paragraph of this judgment. Hence, this

appeal.

5. Learned Counsel appearing for the Appellant submitted that she does not want to press this appeal on merits and confines her arguments to the sentence part only. She further submitted that the matter relates to the year 2002 and out of the total jail sentence of 2 years, the Appellant has already undergone for about 1 year and 1 month. He has no criminal antecedent and is facing the *lis* since 2002, i.e., for about 15 years. Therefore, the sentence awarded to him be reduced to the period already undergone by him.
6. On the contrary, Learned Counsel appearing for the State submitted that the impugned judgment is in accordance with law and the same does not warrant any interference by this Court.
7. I have heard Learned Counsel appearing for the parties and perused the material available on record including the impugned judgment minutely.
8. It is not disputed that the matter relates to the year 2002 and out of the total jail sentence of 2 years, the Appellant has already undergone for about 1 year and 1 month. He has no criminal antecedent and is facing the *lis* since 2002, i.e., for about 15 years.
9. Considering the above facts and circumstances of the case, I am of the considered opinion that the ends of justice would be met if, while upholding the conviction imposed upon the Appellant, the sentence awarded to him is reduced to the period already undergone by him.

10. Consequently, the appeal is allowed in part. The conviction imposed upon the Appellant under Section 20(b)(ii)(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985 is upheld, but the jail sentence awarded to him is reduced to the period already undergone by him. The sentence of fine is upheld.
11. It is reported that the Appellant is on bail. His bail bonds shall continue for a further period of six months from today in terms of Section 437A of the Code of Criminal Procedure.
12. Record of the Court below be sent back along with a copy of this judgment forthwith for information and necessary compliance.

Sd/-

(Arvind Singh Chandel)
JUDGE