

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No.1097 of 2007

Smt. Bisni Bai, age 37 years, W/o Shri Punuram, By Caste Shoemaker, By Profession Cultivator and Shoemaking, R/o Magarlod, P.S. Magarlod, District Dhamtari, Chhattisgarh

---- Appellant

versus

State of Chhattisgarh through the Police Station Magarlod, District Dhamtari, Chhattisgarh

--- Respondent

For Appellant	:	Shri J.A. Lohani, Advocate
For State/Respondent	:	Ms. Madhunisha Singh, Panel Lawyer

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

28.11.2017

1. The Appellant has been convicted under Section 20(b)(ii)(B) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (henceforth 'the Act of 1985') and sentenced with rigorous imprisonment for 1 year and fine of Rs.10,000/- with default stipulation.
2. A certificate of incarceration sent by the Jail Superintendent, Central Jail, Bilaspur would mention that the Appellant has undergone the entire jail sentence imposed upon her by the Trial Court and has already been released on 2.6.2008.
3. The Appellant was allegedly found in possession of 2 Kgs. of Ganja. As per the prosecution story, Sub-Inspector S.K. Dubey (PW11) received information that the Appellant was having illicit Ganja at her house. He recorded the information in Rojnamcha Sanha and prepared a panchnama thereof vide Ex.P12. He served a notice upon the Appellant and obtained her consent

regarding her search vide Ex.P3 and P4. On making search of her house, Ganja was found in the kitchen of her house. On weighing, the recovered Ganja was found to be 2 Kgs. Weight Panchnama is Ex.P8. Two sample packets each of 25 Grams were prepared and sealed. Seizure of the Ganja was made vide Ex.P6. Spot map was prepared vide Ex.P19. The seized Ganja and its sample packets were deposited in the Malkhana. Details of the complete proceedings drawn were forwarded to the superior officers vide Ex.P23 and P24. First Information Report (Ex.P26) was registered. On completion of the investigation, a charge-sheet was filed against the Appellant for offence punishable under Section 20(b) of the Act of 1985. Charge was framed against her under Section 20(b)(ii)(B) of the Act of 1985.

4. To rope in the Appellant, the prosecution examined as many as 11 witnesses. Statement of the Appellant was also recorded under Section 313 of the Code of Criminal Procedure in which she denied the circumstances appearing against her, pleaded innocence and false implication.
5. After trial, the Trial Court convicted and sentenced the Appellant as mentioned in the first paragraph of this judgment. Hence, this appeal.
6. Learned Counsel appearing for the Appellant argued that the prosecution has failed to prove that the illicit Ganja was recovered from the exclusive possession of the Appellant. Provisions of Sections 50 and 55 of the Act of 1985 have not been complied with. The independent witnesses have not supported the case of the prosecution. The Appellant has been falsely implicated in the

case.

7. Per contra, Learned Counsel appearing for the State supported the impugned judgment.
8. I have heard Learned Counsel appearing for the parties and perused the record to assess the correctness of the impugned judgment of conviction.
9. A perusal of the evidence available on record reveals that independent/panch witnesses Lalchand (PW2) and Suresh (PW3) have not supported the case of the prosecution and have been declared hostile. Investigating Officer S.K. Dubey (PW11) has supported the whole prosecution case. He has remained firm in cross-examination. His statement is corroborated by Head Constable Santram (PW6). From perusal of the record, it is also clear that all the mandatory provisions have been complied with in the case. On close scrutiny of the evidence, I find no merit in the appeal.
10. Consequently, the appeal deserves to be and is hereby dismissed.

Sd/-
(Arvind Singh Chandel)
Judge