

CRA No.S-475-SB of 2016

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

CRA No.S-475-SB of 2016

Date of Decision: 18.11.2017

Vikramjit Singh Laddi

.....Appellant

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Gagandeep Singh Chhina, Advocate
for the appellant.

Mr. Sidakmeet Sandhu, AAG Punjab.

AVNEESH JHINGAN, J.

The present appeal has been filed by the appellant against the State of Punjab, challenging the judgment of conviction and order of sentence dated 12.05.2015 passed by the Learned Judge Special Court, Ludhiana, whereby the appellant was held guilty and convicted and sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs.20,000/- and in default of payment of fine to undergo rigorous imprisonment of three months under Section 22 of the NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES, ACT, 1985 (for short 'the Act').

The brief facts of the prosecution case as noted down in the judgment passed by learned Judge Special Court, Ludhiana, are as under:

" Briefly put, the facts of the case of prosecution are that on dated 3.12.2013, SI Swaran Singh along with other police officials were present in connection with barricade duty and checking of suspected persons. Over there a secret informer gave an intimation to SI Swaran

Singh to the effect that Vikramjit Singh @ Laddi son of Balkar Singh is habitual in consuming and selling intoxicating substance, who on that day is sitting at Kohara Chowk Bus Stand, from where buses are being run towards Ludhiana, in search of the customers for selling them intoxicating substance. If a raid is conducted, then he can be caught along with intoxicating powder. The information being authentic and reliable, the Investigating Officer SI Swaran Singh sent the ruqa through C. Navdeep Singh to police station and the police party reached at Kohara Chowk in connection with raid. Over there one haircut young man aged about 23 years was seen, who on seeing the police party immediately stand up and tried to flee away. He was nabbed with the assistance of other police officials by the Investigating Officer. His whereabouts were inquired. He disclosed his name as Vikramjit Singh. Then, the Investigating Officer after disclosing his identity told the accused that he suspected that there might be some contraband in the polythene envelope, which he kept in his right hand and he wanted to conduct the search of the polythene envelope. He made the accused aware qua his legal right for having the search conducted in the presence of some Gazetted Officer or a Magistrate and that he can call them at the spot. However, the accused reposed faith in him and the consent statement of the accused was recorded. On carrying out the search of the polythene envelope of black colour, which was carried by him in his right hand, intoxicating powder was recovered. An effort was made to join an independent witness, but to no avail. Two samples each of 10 gms were taken from the recovered powder and were converted into parcels and the remaining powder on when weighed came out to be 330 gms, which was again put into the same polythene envelope. The case property

thereafter was sealed by the Investigating Officer with his seal bearing impression "SS". Sample seal chit was prepared separately and the seal after use was handed over to HC Om Parkash. Site plan was prepared. Intimation of arrest memo and memo regarding jamatalashi were prepared. Statements of the witnesses were recorded. On return to the police station, the I.O. had produced the accused along with the case property before SI Taranjit Singh, who after verifying the facts of the case had appended his seal bearing impression "TS" and thereafter, the case property was deposited with MHC Niranjana Singh. On 4.12.2013, the case property along with the accused was produced before the court of Sh. Rahul Kumar, JMFC Ludhiana. On receipt of report of Chemical Examiner and on completion of investigation, the challan was presented before the court.

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 22 of the Act, to which he pleaded not guilty and claimed trial.

The prosecution, in order to prove its case examined PW1 ASI Taranjit Singh, PW2 ASI Niranjana Singh, PW3 C. Jagpreet Singh, PW4 ASI Swaran Singh and PW5 HC Om 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 his false implication in the present case. However, the accused-appellant did not lead any defence evidence.

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 did not dispute the conviction of the appellant and only prayed for reduction of sentence. Learned counsel for the appellant contended that 350 grams (Dextropropoxyphene Hydrochloride) intoxicated power had been recovered from the accused-appellant, which falls under the non-commercial quantity. He contended that the appellant is facing criminal proceedings since 2013. He further contended that the appellant is of young age and it was his first offence and he is only male earning member of the family. Learned counsel next contended that the appellant has already undergone two years, eleven months and eleven days actual sentence. As per the custody certificate, he is not involved in any other criminal case after the present FIR till the issuance of custody certificate. This shows that he has mended his ways.

On the other hand, learned counsel for the State argued that the case of the prosecution has been duly proved. There is nothing on record to show false implication of the accused in the present case. He further argued that Pws had consistently deposed regarding recovery from the accused. He further argued that there is no merit in the present appeal and the same should be dismissed.

I have heard learned counsel for the parties and gone through the record.

In view of the evidence, it is proved that the prosecution successfully by leading cogent evidence proved beyond reasonable doubt the offence committed by the accused, therefore, the judgment of conviction

dated 12.05.2015 passed by learned Judge Special Court, Ludhiana, is correct and as per law and it does not require any interference.

With regard to sentence, this court in *Mahabir Vs. State of Haryana*, 1997 (3) RCR 649, keeping in view the delay in trial, reduced the sentence to the period already undergone.

In *Balvinder Singh Vs. State of Haryana*, 2012 (2) RCR (Criminal) 458, this court held that if the contraband recovered from the accused does not fall within the definition of commercial quantity, the ends of justice would be met if the substantive sentence of imprisonment be reduced to that already undergone by him.

Even, the Hon'ble Apex Court in *Mukesh Vs. State of M.P.*, 2014 (16) SCC 571 had reduced the sentence to already undergone. The facts of that case indicate that recovery of the contraband was effected from the appellant about 15 years ago. Thus, the appellant had already suffered the agony of protracted trial, spanning over a period of one and half decade. It was his first offence. He had already served two and half years of imprisonment out of five years. He was on bail since 2005, no other offence committed by him had been brought on record.

However, keeping in view the fact that the appellant is the only male earning member; he is of young age; it was his first offence; he has already suffered long protracted criminal proceedings since 2013, and has already undergone two years, eleven months and eleven days actual sentence, the sentence imposed upon him is reduced to the period already undergone by him. However, the sentence of fine and in default thereof shall remain the same.

Accordingly, the present appeal is partly allowed. If the fine has not been deposited, same be deposited within a period of three months with Chief Judicial Magistrate/Duty Magistrate Ludhiana, from the date of receipt of certified copy of this order. On his depositing the fine, his bail bonds shall be released.

18.11.2017

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**(AVNEESH JHINGAN)
JUDGE**

Whether speaking/reasoned

Yes/No

Whether Reportable:

Yes/No