

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

**206**

**CRA-S-4155-SB-2015.**

**Date of Decision: 02.12.2017.**

Afzal Khan

....Appellant.

Versus

State of U.T. Chandigarh

....Respondent.

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**CORAM: HON'BLE MR. JUSTICE RAMENDRA JAIN**

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**Present:** Ms. Sonia G. Singh, Advocate for the appellant.

Ms. Ashima Mor, APP, for respondent-U.T., Chandigarh.

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**Ramendra Jain, J.(Oral)**

Through the instant appeal, the appellant has assailed the judgment dated 06.07.2015 passed by learned Judge, Special Court, Chandigarh, holding him guilty under Section 22 of the Narcotic Drugs Psychotropic Substances Act, 1985 (for short, 'the Act') and sentencing him to undergo rigorous imprisonment for a period of four months.

The appellant was booked, tried, held guilty and convicted in the aforesaid manner vide judgment dated 06.07.2015 on the allegation that in the evening of 27.05.2014 he was apprehended carrying 45 packets of Spasmocip plus capsules totalling 360 capsules besides 30 packets of Lomotil tablets totalling 600 tablets and one packet of Avil injections totalling 10 injections, in car bearing registration No.CH-03-B-1011 without any permit or licence.

Learned counsel for the appellant contends that according to the procedure, total 76 samples from each packets were required to be taken for sending the same to F.S.L. for analysis so as to ascertain that what was the content of the each packet, but contrary to it only five samples were taken and thus, it was not proved that the entire case property allegedly recovered from the appellant was 'narcotic substance' and thus, the appellant has wrongly been convicted.

On the other hand, learned counsel for respondent-U.T., Chandigarh contends that the aforesaid arguments of learned counsel for the appellant have been fully dealt with and over ruled by learned trial Court in Para No.31 of the judgment and thus, the appeal is liable to be dismissed.

The relevant portion of Para No.31 of the impugned judgment, for ready reference, is reproduced hereunder:-

*“The contention is over ruled because vide notification SO 2941(E), dated 18.11.2009, it has been made clear that quantities shown in column 5 and 6 of the table relating to respective drugs shown in column 2 shall apply to the entire mixture or any solution or any one or more narcotic drugs or psychotropic substances of that particular drug in dosage form or isomers, esters, ethers and salts of these drugs, including salts of esters, ethers and isomers, wherever existence of such substance is possible and not just its pure drug content. Meaning thereby that entire quantity of contraband recovered from the possession of the accused is to be treated as drug and as such non mention of percentage has not prejudiced the accused in any way.”*

Since the appellant has not been able to put any dent in the F.S.L. report and any illegality or perversity in the findings recorded by learned trial Court in the impugned judgment, I find no merit in the appeal and the same is dismissed.

**(RAMENDRA JAIN)**  
**JUDGE**

**02.12.2017**  
*jitender sharma*

|                            |   |         |
|----------------------------|---|---------|
| Whether speaking/ reasoned | : | Yes/ No |
| Whether Reportable         | : | Yes/ No |