

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR 1363-2017(O&M)
Date of decision: 17.11.2017

Sumeet Kansal and another

.....Petitioners

versus

Union of India

.....Respondent

CORAM: Hon'ble Mr.Justice Kuldip Singh

Present: Mr.Ashok Aggarwal, Senior Advocate with
Mr.K.S.Nalwa, Advocate for the petitioners
Mr.Aditya Sanghi, Advocate for the respondent-UOI

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldip Singh, J. (Oral)

Learned counsel for the petitioner has impugned the judgment dated 8.2.2017, passed by the learned Additional Sessions Judge, Chandigarh, affirming that of learned Chief Judicial Magistrate, Chandigarh dated 25.2.2016, vide which, the petitioners were convicted under Section 18(1)(a)(i) read with Section 27(d) of Drugs and Cosmetic Act, 1940 and were sentenced till rising of the Court and to pay a fine of Rs.25,000/- each, in default thereof, to undergo simple imprisonment for one month on the ground that the drugs kept by the petitioners failed the disintegration test.

Learned counsel for the petitioners has pressed the petition only on the quantum of sentence. It is contended that the learned Additional Sessions Judge, Chandigarh erred in declining the release of both the petitioners on probation only on the ground that since the petitioners have

already undergone the sentence till rising of the Court, lower Appellate Court cannot pass such order to undo the sentence which has already been served by the petitioners.

I am of the view that the view taken by the the learned Additional Sessions Judge, Chandigarh is contrary to law. There is no bar for grant of probation, if somebody has already undergone the sentence whatever may the term of the sentence.

Keeping in view the facts and circumstances, the present revision petition is allowed to the extent that the order of substantive sentence passed by both the Courts below is set aside and instead the petitioners are ordered to be released on probation under Section 5(1) of the Probation of Offenders Act, 1958 on furnishing probation bonds in the sum of Rs.25,000/- each with one surety of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Chandigarh with an undertaking to maintain peace and be of good behaviour for a period of one year and not to commit the similar offence. Probation bonds be furnished before learned Chief Judicial Magistrate, Chandigarh within six weeks from the date of receipt of a certified copy of this order. As provided under Section 12 of Probation of Offenders Act, 1958 the conviction of the petitioners shall not be treated as disqualification for any purpose.

17.11.2017

gk

(Kuldip Singh)
Judge

Whether speaking/ reasoned:	Yes
Whether Reportable:	No