

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

**CRR No.2092 of 2017 (O&M)
Date of Decision: October 27, 2017**

Manveer Singh

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.Jashandeep Singh, Advocate
for the petitioner.

Ms.Simranjeet Kaur, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Manveer Singh against respondent State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 16.02.2016 passed by learned Addl. Chief Judicial Magistrate, Bathinda vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of two years and to pay fine of ₹5000/- and in default of payment of fine, to undergo rigorous imprisonment for a period of one month under Section 27 (b) (ii) of the Drugs and Cosmetics Act and further to undergo rigorous imprisonment for a period of six months under Section 28 of the above-said Act and also challenging the judgment dated 18.04.2017 passed by learned Addl. Sessions Judge, Bathinda, vide which appeal filed by petitioner was

dismissed. Both the sentences were ordered to run concurrently.

At the time of preliminary hearing, learned counsel for the petitioner did not dispute the concurrent findings of the Courts below regarding conviction and only contended on the point of reduction of sentence.

Notice of motion was issued only qua quantum of sentence. Learned State counsel appeared and contested the petition.

From the record, I find that a complaint was filed against the petitioner under Section 18(c), 18(A) punishable under Section 27(b) (ii) and 28 of Drugs and Cosmetics Act, 1940. The brief averments of the complaint as noted down in the judgment passed by learned ACJM, Bathinda, are as under:-

“2. Brief facts of the complaint are that complainant was notified as an Inspector under Section 21 of Drugs & Cosmetics Act, 1940 Rules 1945 vide Gazette Notification No.1/108/06-4-HBIV/1296 dated 6.12.2007. Complainant was also notified as Ex-officio Assistant Public Prosecutor vide Govt. Gazette Notification No.1/108/06-4-HBIV/1300 dated 6.12.2007. It is submitted that on 17.9.2008 on secret information, complainant alongwith ASI Makhan Singh, HC Paramjit Singh and HC Kulwant Singh inspected the shop premises of M/s Bahia Medical Hall, Bajwana. During inspection Manveer Singh son of Buta Singh was present as proprietor and incharge of the firm. Chamkaur Singh son of Bant Singh and Buta Singh son of Hakam Singh joined the proceedings as independent public witnesses. During the course of inspection Manveer Singh was found stocking 102 types of allopathic drugs for sale and distribution at his shop. On enquiry he did not produce any valid drugs sale license as per requirement of Section 18 (c) of Drugs and Cosmetics Act, 1940 rules 1945 and accused did not produce any registered medical practitioner certificate. No purchase bills were shown on demand as required under Section 18A of Drugs and Cosmetics Act, 1940 i.e. did not disclose the source of acquisition of drugs. Complainant seized 102 types of allopathic drugs on form No.16, which was signed by accused, complainant and the team members. Copy of form No.16 was given to accused and receipt was obtained on form No.16 itself. It is further submitted that seized drugs were placed in

cardboard box and sealed with his seal impression. One spot memo was prepared on the spot and it was signed by the complainant and team members. It was also signed by accused. On 18.9.2008 complainant presented the seized drugs alongwith original form No.16 in the court for custody orders and court passed necessary orders. Complainant sent notice No.Drugs/08/554 dated 19.9.2008 under Section 18-A, 18(c) of Drugs and Cosmetics Act, 1940 by registered post to accused to disclose source of acquisition of drugs and to disclose about the drugs sale licenses. Copy of this letter was also sent to State Drugs Controller, Punjab Chandigarh. Complainant sent one more notice vide letter dated 14.11.2008 under Section 18A and 18 (c) of the Act by registered post to accused to disclose the source of acquisition of drugs and to disclose about the drugs sale licence. Copy of this letter was also sent to State Drugs Controller, Punjab also. This letter was returned undelivered with the comments of postal authorities as no person of this name is residing there. Complainant sent one more notice vide letter dated 8.12.2008 under Section 18A and 18(c) of Act to accused at his residential address to disclose the source of acquisition of drugs and to disclose about the drugs sale licenses and copy of this letter was sent to State Drugs Controller, Punjab also and this letter was also received back undelivered with report of refusal. It was further stated that detailed investigation report was sent to the State Drugs Controller, Punjab vide office letter No.Drugs/08/32 dated 12.1.2009 and State Drugs Controller, Punjab Chandigarh issued prosecution orders to launch court case against Manveer Singh vide letter dated 4.3.2009. Hence, accused has committed the offences under Section 18 (c), 18 (A) Punishable under Section 27 (b) (ii) and 28 of Drugs and Cosmetics Act 1940. Hence, the present compliant.”

Learned ACJM, Bathinda, after appreciating the evidence, convicted and sentenced the petitioner as stated above. An appeal was filed by the petitioner and the same was dismissed by learned Addl. Sessions Judge, Bathinda, vide judgment dated 18.04.2017.

Aggrieved from the above-said judgments, present revision petition has been filed.

At the time of arguments, learned counsel for the petitioner did not dispute the concurrent findings of the Courts below regarding conviction and only contended on the point of reduction of sentence.

Learned counsel for the petitioner argued that petitioner is first offender and sole bread earner of the family. Learned counsel for the petitioner further contended that the petitioner is suffering from the criminal proceedings since 2010.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the record.

Keeping in view the facts and circumstances of the present case and in view of the fact that petitioner is stated to be first offender and sole bread earner of the family and also in view of the fact that he is facing long protracted criminal proceedings since 2010 i.e. for the last about 7 years, the sentence imposed upon the petitioner is reduced and he is directed to undergo rigorous imprisonment for a period of one year under Section 27(b) (ii) of the Drugs and Cosmetics Act, instead of two years. However, other sentence, sentence of fine and in default thereof, shall remain the same. Both the sentences shall run concurrently.

With the above-said modification in the sentence, present revision petition stands dismissed.

October 27, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No