

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 2082 of 2000**

1. Deo Kumar son of Ramchandra aged about 23 years, residents of Dalli Rajhara, District Durg, M.P.
2. Padma Bai wife of Sondhar aged about 45, Dalli Rajhara, District Durg, M.P.

---- Appellants**Versus**

State Of Madhya Pradesh through Town Inspector, Kanker, District Kanker, Chhattisgarh.

---- Respondent

For the Appellants : Shri Sumit Singh Rathore, Advocate.
 For the Respondent/ State: Shri Neeraj Kumar Mehta, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Judgment on Board****05.12.2018**

1. This appeal has been preferred against the judgment of conviction and order of sentence dated 18.7.2000 passed by the Learned Special Judge, Jagdalpur, Chhattisgarh in Special Case No.90 of 1999, whereby and whereunder, the learned Special Judge has convicted the appellants under Section 20-B of the Narcotic Drugs and Psychotropic Substances Act, 1985 and sentenced to undergo rigorous imprisonment for 2 years and to pay fine of Rs.2,000-2,000/-, in default of payment of fine, to further undergo RI for 3-3 months.

2. Conviction is impugned on the ground that without there being any iota of evidence, the trial Court has convicted and sentenced the appellants as

aforementioned and thereby committed illegality.

3. The facts of the case, in brief, are that on 1.11.1999, Sub-Inspector – Parmesh Dhruv received a confidential information that a man and a woman traveling on a scooter are carrying ganja (narcotic substance). Panchanama was prepared and after sending an advance information to the Superior Officer, Sub-Inspector – Parmesh Dhruv, proceeded to the spot with his team and the witnesses. After creating a blockade at about 3:15 pm, the appellants were stopped on the spot. After serving a notice under Section 50 of the NDPS Act and obtaining a consent for search of the appellants, search was made in which 3.5. kg of ganja was found from the dicky and the gunny bag carried by the accused person which was weighed. Sample was prepared and seizure was made on the spot. The appellants were arrested on the spot and thereafter, FIR was registered in the police station vide Ex.P/24. Information of the proceeding was sent to the Superior Officer and after obtaining the FSL report regarding the sample, which was in positive, statements of the witnesses were recorded under Section 161 of the Code of Criminal Procedure, 1973 (for short 'the Code'). After completion of investigation, the charge-sheet was filed before the concerned Court.

4. During trial, the Court below framed the charges against the appellants under Section 20-B of the Narcotic Drugs and Psychotropic Substances Act, 1985. The prosecution examined 4 witnesses to prove the guilt of the appellants. No witness was examined in defence. Statements of the appellants were recorded under Section 313 of the Cr.P.C. wherein the appellants denied the circumstances appearing against them and pleaded innocence and false implication in the crime in question.

5. After affording opportunity of hearing to both the parties, learned trial Judge convicted and sentenced the appellants as aforementioned.

6. I have heard learned counsel for the parties, perused the judgment impugned and records of the Court below.

7. Learned counsel appearing on behalf of the appellants submits that the appellants have already suffered jail sentence and released from jail. It is also submitted that the conviction of the appellants is bad in law and without there being any reliable or trustworthy evidence. Hence, it is prayed that the appeal may be allowed and the appellants may be acquitted of the charge framed against them.

8. Per contra, learned counsel for the Respondent/ State opposed the grounds raised in the appeal and submissions. It is submitted that the prosecution has proved its case beyond reasonable doubt and there is no reason to interfere in the impugned judgment. Hence, no case is made out for acquittal of the appellants.

9. In order to appreciate the arguments advanced on behalf of the parties, I have perused the evidence adduced by the prosecution.

10. Perused the evidence of all the witnesses present on record of the trial Court. After closely examining and scrutinizing all the evidence on record of the trial Court, I am of the opinion that the trial Court has not committed any

error in coming to this conclusion that the appellants have committed the aforesaid offences and has rightly convicted them. Hence, no interference is called for in this appeal.

11. Accordingly, the appeal is dismissed.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi