

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 542 of 2002

Arjun S/o Kamal Charan, Occupation daily wages, R/o village Dongri, PS Katpar, District Koraput (Odisha) C.G.

---- Appellant

Versus

State of Chhattisgarh

---- Respondent

For the Appellant	:	Shri Surya Kant Mishra, Advocate
For the Respondent/State	:	Shri Vinod Takam, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy

Judgment On Board

06/01/2018

The appellant in the instant case stands convicted for the offence punishable under Section 8 (c) read with Section 20 (b) (i) of Narcotic Drugs and Psychotropic Substance Act and sentenced to undergo RI for 3 years with fine of Rs.5,000/-, in default of payment of fine, to further undergo RI for one year vide judgment dated 22.03.2002 passed by the Special Judge (NDPS Act), Durg (CG) in NDPS Misc. Case No. 42/2001.

2. The case of the prosecution is that on 17.07.2001, a secret information was received to the extent that a person is waiting at bus stand Durg carrying Ganja in a suitcase. On the basis of the said information, a proceeding as is required under the NDPS Act was initiated by PW-5 R. K. Mishra, the Sub-Inspector, PS Durg. An intimation in this regard was immediately sent to the higher officer i.e. City Superintendent of Police. The police team headed by PW-5 went to the spot where the appellant was waiting and on search, 5.800 Kg. Ganja was found in his possession which was kept in a suitcase. The statutory provisions under the NDPS Act was

complied with and the matter was put to trial before the Special Judge, NDPS Act, Durg.

3. During the course of trial, the prosecution examined as many as 08 witnesses and there was no witnesses examined on behalf of the defence.

4. The trial Court taking into consideration the evidences which have come on record vide impugned judgment dated 22.03.2002 found the appellant guilty for the offence punishable under Section 8 (c) read with Section 20 (b) (i) of NDPS Act and accordingly, convicted and sentenced him under the said section as mentioned in paragraph-1 of this judgment leading to the filing of this appeal.

5. Contention of the counsel for the appellant is that the statutory provisions of the NDPS Act have not been complied with in the present case and that there are many discrepancies and contradictions in the statement of the prosecution witnesses. Therefore, the impugned judgment deserves to be set aside and the appellant is entitled for an order of acquittal.

6. State counsel, per contra, opposing the appeal submits that the prosecution in support of its contention has brought sufficient evidence before the trial Court to establish the case of the prosecution. He submits that except the two seizure witnesses i.e. PW-2 Shekh Jahir and PW-3 Abbas Khan, all other six witnesses examined on behalf of the prosecution have supported the case and have proved the charges levelled against the appellant. Thus, prayed for rejection of the appeal.

7. Having heard the contentions put forth on either side and on perusal of the record what clearly reflects is that PW-1 Lalji Singh Yadav, the constable has deposed before the Court below establishing the statutory compliances required to be done before lodging of the FIR Ex.P-10. A perusal of the record would show that PW-7 Somnath Pandey, Head

constable has categorically deposed that immediately on receiving a secret information and the same being recorded in Rojnamacha Sanha, he had taken information to the higher authority i.e. the City Superintendent of Police. Likewise, PW-8 Shankar Prasad who is a head constable had kept the seized contraband in Malkhana further proving the case of the prosecution. The statement of the aforesaid three witnesses further stands corroborated from the evidence of the Investigating Officer R. K. Mishra (PW-5) who has proved before the Court below in respect of the mandatory statutory requirements which were followed under the NDPS Act.

8. Given the facts and circumstances of the case particularly taking note of the aforesaid evidence of PW-5 as also PW-1, PW-7 & PW-8, this Court is of the opinion that the prosecution in the instant case has been able to fully establish the charges levelled against the appellant.

9. This Court does not find any strong case made out by the appellant calling for an interference with the finding given by the Court below. Thus, affirming the impugned judgment of conviction and sentence, the present appeal is dismissed. It has been informed by the State counsel that after completion of entire jail sentence, the appellant has been released from jail. Hence, no further step needs to be taken on the dismissal of this appeal.

Sd/-
(P. Sam Koshy)
JUDGE