

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 1206 of 2002**

Hemant Lal Soni S/o Kantu Lal Soni, Age 25 years,
occupation, Rikshaw Puller, R/o village Aamapara, Dhamtari
P.S. Dhamtari, District Dhamtari (CG)

---- Appellant**Versus**

State Of Chhattisgarh Through Police Station- Bhanpuri

---- Respondent

For Appellant : Ms. Sarina Khan, Advocate

For State/ Respondent : Shri Arvind Dubey, Panel Lawyer

HON'BLE SHRI JUSTICE RAM PRASANNA SHARMA**JUDGMENT ON BOARD****28.4.2018**

1. This appeal is preferred against the judgment of conviction and order of sentence dated 14th September, 2002, passed by the Special Judge under the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act'), Bastar at Jagdalpur in Special Case No. 19/2002, wherein the trial Court has convicted the appellant under Section 20(b)(ii) B of the said Act and sentenced to undergo imprisonment for six years and fine of Rs.15,000/-, in default of payment of fine to further undergo R.I. for one year and six months.

2. As per the prosecution case, Police Station In-charge of Bhanpuri received information that one person is having contraband article in his possession in two packets. Upon such information on 31.5.2002, the authorities reached to the spot where the appellant was standing with two bags and informed the appellant about his rights to be searched by any gazetted officer or Magistrate but he opted to be searched by the Police Officer. As the appellant consented to be searched by the Police Officer, the Sub-Inspector, Gambhir Sonwani (PW4) prepared a Panchanama, Ex. P/4 and searched the appellant, on which, he was found in possession of contraband article which measured to be 14 kg. After completion of legal formalities, the appellant was charge-sheeted and convicted and sentenced as mentioned above.

3. To substantiate the charge prosecution has examined as many as 4 witnesses. As per version of Sub-Inspector, Gambhir Sonwani (PW4), the appellant was found in conscious possession of ganja which was measured as 14 kg, two samples were prepared from each packet and sealed on the spot. The seized samples were kept in safe custody of the Police and were sent to Forensic Science Laboratory for its examination in which test of ganja was found positive. Version of this witness subjected to searching cross-examination, but nothing could be elicited in favour of the appellant.

4. I have heard counsel for the parties and perused the material on record.

5. Head Constable, R.P. Mishra (PW3) supported the version of Sub-Inspector, Gambhir Sonwani (PW4) that he was entrusted with seized article ganja and kept the same in safe custody in the Malkhana of Police Station. From the evidence of Gambhir Sonwani(PW4) it is established that the samples were sent for Forensic Science Laboratory and as per report Ex.P/24, it was found to be ganja.

6. True it is that the independent witnesses PW1, Brij Bihari Dewangan and PW2, Bhagchand, have not supported the version of the Police Officer, but they have admitted their signatures in seizure document and other relevant papers.

7. Now, the point for consideration is whether the statement of Police Officer can be discarded merely on the ground that the other witnesses of seizure are not supporting his version. It is settled law that the statement of a Police Officer cannot be undermined only because he is a Police Officer and version of the Police officer is supported by various documents kept in Police Station for recording day to day activities, the same cannot be rejected, therefore, the arguments advanced on behalf of the appellant is not sustainable

8. Considering the quantity of ganja which is measured as 14 kg, the appellant had committed mischief under Section 20 (b) (ii) B of the NDPS Act, for which the trial Court has rightly convicted the appellant and the same is hereby affirmed.

Heard on the point of sentence.

9. The appellant had already suffered the jail sentence for more than 3 months during trial and after conviction he suffered the jail sentence upto 12.3.2003 i.e. about 6 months. In all, he has suffered the jail sentence for about 9 months, in view of this Court, the period already undergone by the appellant would be sufficient for the above offence, therefore, he is sentenced to the period already under by him. However, the fine amount shall remain intact.

10. With the above modifications, the appeal is partly allowed.

Sd/

(Ram Prasanna Sharma)

JUDGE