

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 242 of 2002

(Arising out of judgment of conviction and order of sentence dated
26-2-2002 passed by the Special Judge (NDPS), Raipur, in
Spl. Cr.Case No.39/01)

- Shatamma Telgu, aged about 25 years, W/o Tulsidas Telgu, R/o Palasa Anjur Kuturu, Dist. Sirkakolam (AP) present address – Bindranagar, Near Andhra School, Bhilai, Dist. Durg (CG).

---- Appellant

Versus

- State of Chhattisgarh

---- Respondent

For Appellant
For Respondent/State

Shri Y.C. Sharma, Advocate
Shri Arvind Dubey, Panel Lawyer

Judgment on Board

By

Ram Prasanna Sharma, J.

12/04/2018

1. This appeal is preferred against the judgment of conviction and order of sentence dated 26-2-2002 passed by the Special Judge (NDPS), Raipur, in Spl. Cr.Case No.39/01 wherein the said Court convicted the appellant under Section 20 (b) (i) read with Section 8 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for brevity 'the NDPS Act') for possessing 14 kgs. illegal contraband Ganja and sentenced her to undergo RI for three years and to pay fine of Rs.3000/- with default stipulations.

2. On the basis of secret information, the team of In-charge of Police Station GRP, Raipur, namely; Nahir Sai (PW-3) reached to platform No.4 of Railway Station, Raipur, and informed the appellant about her right to be searched by any Gazetted Officer or Magistrate, but she gave consent to be searched by the said Officer. On search, two bags were found in possession of the appellant and on weight, quantity of the article was found to be 14 kgs. from both the bags. Two samples of 50 grams each were separated & sealed and thereafter, kept in safe custody of Malkhana of the police station. Samples were sent to the Forensic Science Laboratory (FSL), Raipur, through one Constable and as per the report of the FSL, the article was found to be of contraband Ganja.
3. Version of the prosecution is supported by the version of Nahir Sai (PW-3) who was In-charge of police station. As per version of this witness, he seized the articles from the appellant; separated 4 samples from 2 bags and, thereafter, sealed & seized the articles. Version of this witness is supported by the version of Bhagwandas (PW-2), who was the Head Constable and Incharge of Malkhana. As per version of this witness, he kept the seized articles in safe custody of Malkhana and samples were sent for examination by the FSL. Version of these witnesses is again supported by ASI Rashim Diwan (PW-4).
4. True it is that there are some minor contradictions and omissions in the statements of witnesses, but the same are not material and do not go to the root of the case. It is true that the seizure witnesses have not supported the version of the police officer, but the same is not discarded the testimony of the police officer.

5. From the oral and documentary evidence, it is established that contraband article Ganja was seized from the possession of the appellant and, as such, the act of the appellant falls within mischief of Section 20 (b) of the NDPS Act. Thus, the trial Court has rightly convicted the appellant. Accordingly, the conviction is hereby maintained.

6. Heard on the point of Sentence :

- It appears that the appellant is in custody from 20-8-2001 to 11-3-2002 that comes out to more than 6½ months. In the opinion of this Court, the period already undergone by the appellant would be sufficient sentence for commission of offence under Section 20 (b) (i) read with Section 8 of the NDPS Act. Accordingly, the appellant is sentenced to the period already undergone by her. However, the fine amount imposed by the trial Court upon the appellant shall remain unaltered.
- The appellant is on bail. Surety and personal bonds earlier furnished at the time of suspension of sentence shall remain operative for a period of six months in view of the provisions of Section 437-A of the Cr.P.C. The appellant shall appear before the higher Court as and when directed.

13. As a sequel, the appeal is allowed in part to the extent indicated above.

Sd/-

Judge

Ram Prasanna Sharma

Gowri