

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRIMINAL APPEAL NO. 15 OF 2010

Smt. Padma, W/o Umashankar Mehra, age 22 years, occupation- Agriculture, R/o Village- Borgaon, Police Station- Amda, District Navrangpur (Orissa)

... Appellant

versus

State of Chhattisgarh, through Police Station- Nagarnar, District Bastar (C.G.)

... Respondent

For Appellant	:	Ms. Sofia Khan, Advocate.
For Respondent-State	:	Mr. Gary Mukhopadhyay, Govt. Advocate.

Hon'ble Shri Justice P. Sam Koshy

Judgment on Board

06/01/2018

1. The present is a jail appeal preferred by the appellant assailing the judgment of conviction and order of sentence dated 5.10.2009 passed by the Special Judge, N.D.P.S. Act, Jagdalpur, in Special N.D.P.S. Case No. 19/2008.
2. Vide the impugned judgment, the learned Court below has convicted the Appellant for the offence punishable under Section 20(B)(ii)(b) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'the N.D.P.S. Act') and sentenced her to undergo R.I. for 5 years with fine of Rs.5000/- and in case of default of payment of fine amount, she was further ordered to undergo additional R.I. for six months.
3. Case of the prosecution in brief is that on 23.4.2008 a secret information was received at Police Station- Nagarnar in respect of a person transporting Ganja at bus-stand Ulnar Chowk under Police Station- Nagarnar, District Jagdalpur. Immediately thereafter the police authorities at Police Station- Nagarnar initiated proceedings under the provisions of the N.D.P.S. Act and as per the mandatory requirements, registered the case in their Rojnamcha Sanha and also sent a Constable No.342,

Lambodar, to the office of the City Superintendent of Police giving intimation and for permission to proceed and also search without a warrant. Subsequently, the police team went to the Ulnar Chowk bus-stand where they found the appellant to be carrying something suspicious in a white jute bag and after due compliance of the mandatory provisions of the N.D.P.S. Act, the appellant was searched where she was found carrying 5 kilogram of Ganja in a polythene bag which was kept in a white jute bag that she had. Immediately thereafter, further proceedings under the provisions of the N.D.P.S. Act was initiated and the case was registered against the appellant and the matter was put to trial before the Special Judge, N.D.P.S. Act, Jagdalpur where the case was registered as Special N.D.P.S. Case No. 19/2008.

4. During trial, the prosecution examined as many as 7 witnesses and there was no witness examined in defence.

5. After conclusion of the trial, the learned Court below, vide the impugned judgment, convicted the appellant for the offence punishable under Section 20(B)(ii)(b) of the N.D.P.S. Act and ordered her to undergo the sentence as mentioned in the second paragraph of this judgment.

6. It is this judgement of conviction and sentence which has been assailed by the appellant in the present appeal.

7. Learned counsel for the appellant assailing the impugned judgment submits that it is a case where the prosecution has miserably failed to prove its case as is required under the provisions of the N.D.P.S. Act. She further submits that the mandatory statutory requirements under Sections 42, 50 and 55 of the N.D.P.S. Act have not been complied with by the prosecution and as such the impugned judgment deserves to be set aside/quashed.

8. Learned counsel for the State however opposing the appeal submits that it is in fact a case where the prosecution has led sufficient evidence to prove its case beyond all reasonable doubts and that all necessary mandatory requirements under the provisions of the N.D.P.S. Act have been complied with, and thus prayed for the rejection of the appeal.

9. Having heard the contentions put forth on either side and on perusal of record, what is to be seen is, whether the compliance as is required under the N.D.P.S. Act has been complied with or not. The statement of PW-2 K.D. Singh, the Assistant Sub Inspector at Police Station Nagarnar, who is the Investigating Officer of the case, would reflect the manner in which the statutory and mandatory compliance under the provisions of the N.D.P.S. Act has been followed. In support of the statement of PW-2 was the evidence of PW-7 Sukal Singh Gawde, who was the Head Constable posted at the office of City Superintendent of Police, Jagdalpur where the Constable No.342 Lambodar had brought the intimation of the secret information recorded in the Rojnamcha Sanha and further seeking permission to carry out the search without a warrant on account of paucity of time. Further, the evidence of PW-7 Sukal Singh Gawde is not confronted by the defence in any manner to either doubt or disbelieve this person. Thus, the compliance under Section 42 of the N.D.P.S. Act stands proved and established. Likewise, the statement of PW-2 K.D. Singh as also the PW-6 Smt. Gouriti Tirkey, the Constable, who had searched the appellant, establishes the compliance as is required under Section 50 of the N.D.P.S. Act. Further PW-1 Kunwar Singh Netam, the Malkhana Incharge, also has deposed before the Court below in respect of the seized contraband being kept in his possession so as to ensure the safety of the contraband which was seized from the possession of the appellant. In addition to the aforesaid, there is also a FSL report, Exhibit P-31, which

further establishes the fact that the contraband seized from the possession of the appellant was in fact Ganja.

10. Given the evidence which have been narrated in the preceding paragraph, this Court has no hesitation in holding that the Court below has rightly found the appellant to be guilty of having committed the offence punishable under Section 20(B)(ii)(b) of the N.D.P.S. Act and that there is sufficient evidence led by the prosecution to show that the mandatory compliance under the provisions of the N.D.P.S. Act to have been followed.

11. The appeal thus being devoid of merits fails and the same deserves to be and is accordingly dismissed.

12. As per the report received from the office of Superintendent, Central Jail, Jagdalpur, District Bastar, dated 30.10.2017, the present appellant is stated to be already released from jail on 22.4.2013 after completing her entire jail sentence, hence no steps are required to be taken in this matter.

Sd/-
(P. Sam Koshy)
Judge