

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRA-S-1441-SB of 2004 (O&M)

Date of decision : 19.3.2018

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Bhola Singh

.....Petitioner

vs.

State of Punjab

.....Respondent

Coram: Hon'ble Mr. Justice H. S. Madaan

Present: Ms. Sushma Verma, Advocate
for the appellant.

Mr. Rakeshinder Singh Sidhu, Assistant Advocate General,
Punjab.

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H. S. Madaan, J. (Oral)

Bhola Singh on being convicted by Judge, Special Court, Patiala, was sentenced to undergo rigorous imprisonment for a period of six months and to pay a fine of Rs.1,000/- , in default of payment of fine to undergo further rigorous imprisonment for two months, vide judgment dated 13.7.2004.

Briefly stated, facts of the case, as per prosecution story are that on 15.3.2003 in the area of Waraichan Patti Samana, the appellant was found to be in possession of poppy husk weighing 15 kgs. He was arrested in this case. Sample was drawn from the recovered contraband. The said sample and the bag containing remaining poppy husk were converted into sealed parcels. The FIR

was got registered. The samples were sent to the office of Chemical Examiner and vide report Exhibit PB those were found to be of poppy husk.

After completion of the investigation and other formalities, challan against the accused was prepared and filed in the Court.

On presentation of challan copies of documents relied upon therein were supplied to the accused free of cost, as provided under Section 207 Cr.P.C. Then the accused was charge sheeted for the offence under Section 15 of the NDPS act, to which he pleaded not guilty and claimed trial.

During the course of prosecution evidence, the prosecution examined as many as five witnesses, namely, PW-1 Constable Narinder Singh, PW-2 Inspector Jassa Singh, PW-3 SI Balbir Singh, PW-4 HC Sahib Singh and PW-5 MHC Ajit Singh. With that the prosecution evidence got concluded.

Statement of the accused was recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against the accused were put to him, but he denied the same contending that he was innocent and has been falsely involved in this case. The accused did not lead any evidence in defence.

After hearing arguments, the trial Court convicted and sentenced the accused as mentioned above, which left him aggrieved and he has filed the present appeal, which was admitted. The amount of fine has already been deposited.

I have heard learned counsel for the appellant, learned

State counsel, besides going through the record.

At the very outset, learned counsel for the appellant has contended that she does not challenge the impugned judgment on the point of conviction, but has got submissions to be made as regards the sentence part. She contends that the recovery of contraband is quite less in quantity, the incident relates to the year 2003, more than 14 years have elapsed therefrom, the appellant is a poor person and his family is dependent upon him for financial support.

After hearing learned counsel for the appellant, learned State counsel and going through the record, I am of the view that ends of justice would be adequately met, if the sentence of imprisonment imposed upon the accused-appellant is modified from six months to the rigorous impressment already undergone by him, in this case which is 21 days, as per custody certificate filed by the State counsel.

Therefore, while maintaining the conviction, the sentence awarded is modified in the impugned judgment and the appellant is sentenced to imprisonment already undergone by them in this case.

With the above modification, the appeal stands disposed of.

19.3.2018
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(H.S. Madaan)
Judge

Whether speaking / reasoned

Yes / No

Whether reportable

Yes / No