

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRA-S-4071-SB-2015

Date of decision:-23.2.2018

Jaspreet Singh

...Appellant

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Sameer Sachdeva, Advocate
for the appellant.

Mr.Saurav Khurana, DAG, Punjab.

H.S. MADAAN, J.

This appeal is directed against the judgment dated 15.1.2015 passed by Judge, Special Court, Jalandhar vide which accused Jaspreet Singh was convicted for an offence under Section 21 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as '*the Act*') and vide order of that every date, he was sentenced to undergo imprisonment for ten years and to pay a fine of Rs.1,00,000/- and in default thereof, to further undergo imprisonment for two years.

The accused-convict – Jaspreet Singh, who is appellant before this Court prays that the appeal be accepted, the impugned judgment of his conviction and sentence be set aside and he be acquitted of the charge framed against him.

Briefly stated, the prosecution story is that on 23.4.2012, a police party from Police Station Maqsudan, Jalandhar headed by Inspector Dharam Pal was carrying out investigation of the case bearing

FIR No.57 dated 16.4.2012, under Sections 395, 120-B IPC and 25 of the Arms Act; that accused Jaspreet Singh @ Jassa while being interrogated suffered a disclosure statement that he had committed a snatching on 16.4.2012 and out of the snatched money, Rs.50,000/- and heroin had been kept concealed in uninhabited area lying between a metalled road and railway line, which could be got recovered; that disclosure statement of accused was recorded; that Sh.Harpreet Singh, DSP was called at the spot; that the accused got recovered Rs.50,000/- in cash and heroin from the disclosed place; that two samples of 5 gms. each were separated out of the bulk and on being weighed remaining heroin came to be 265 gms.; that a case under NDPS Act was separately registered and Rs.50,000/- was made case property in FIR No.57 of 2012; that the case property and samples were sealed with seal of Investigating Officer having impression 'SN' and then by DSP having impression 'HS'; that Form No.29 was prepared separately; that ruqa was sent for registration of the case; that on return to the police station, the Investigating Officer produced the case property and the samples as well as accused before officiating SHO Sat Pal, who after verification put his seal on the case property and samples; that his seal is having inscription of 'SP' and he affixed it on sample seal impression; that accused were put in the lock up; that on the next day, the case property along with accused were produced before the Illaqa Magistrate, who saw the case property returning the same to Investigating Officer; that on receipt of report from Chemical Examiner in positive, challan was prepared and filed it in the Court.

On presentation of challan in the Court of Judge, Special

Court, Jalandhar, copies of documents relied upon in the challan were supplied to the accused free of cost as provided under Section 207 Cr.P.C.

Learned Judge, Special Court, Jalandhar finding that charge for offence under Section 21 of the Act was disclosed against the accused, charge-sheeted the accused for the said offence, to which, he pleaded not guilty and claimed trial. The case was then fixed for evidence of prosecution.

To bring home guilt to the accused, the prosecution examined as many as seven witnesses, namely, Hari Chand, MHC as PW1, ASI Sat Pal as PW2, HC Sukhwinder Singh as PW3, ASI Paramjit Singh as PW4, Inspector Som Nath as PW5, DSP Harpreet Singh as PW6 and Inspector Dharam Pal as PW7 (wrongly numbered as PW6).

With that the prosecution evidence stood closed.

Statement of accused was recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing against him were put to him but he denied the allegations contending that he is innocent and had been falsely involved in this case.

Accused did not lead any evidence in defence.

After hearing arguments, learned Judge, Special Court, Jalandhar convicted and sentenced the accused as mentioned supra, which left appellant – accused Jaspreet Singh aggrieved and he has filed the present appeal.

Learned counsel for the appellant has argued that the appellant/accused was not in conscious possession of the heroin and recovery was got effected on the basis of disclosure statement said to

have suffered by the accused while in police custody, therefore, the same is not admissible and accused should be acquitted of the charge framed against him.

Whereas, learned State counsel has countered the argument stating that during the course of interrogation, accused had suffered a disclosure statement and thereafter in pursuance thereof while in police custody had got the recovery effected, which goes to prove that he was in exclusive possession of the contraband, which he got recovered and it is to be taken that the accused was in conscious possession of such contraband.

I have heard learned counsel for the appellant-accused-convict and learned Deputy Advocate General for the State of Punjab besides going through the record and I find that there is no merit in the appeal.

Section 27 of the Indian Evidence Act provides that when any fact is deposed to as discovered in consequence of information received from a person accused of any offence, in the custody of a police officer, so much of such information, whether it amounts to a confession or not, as relates distinctly to the fact thereby discovered, may be proved. Therefore, the recovery of the contraband got effected by the accused in pursuance of disclosure statement under Section 27 of the Indian Evidence Act suffered by him before the police authority is definitely admissible and shows his conscious possession.

PW4 ASI Paramjit Singh and PW5 Inspector Som Nath besides PW6 DSP Harpreet Singh and PW7 Inspector Dharam Pal have

deposed in that regard. The link evidence is complete. There is nothing on record to show that the prosecution witnesses had any previous enmity with the accused so as to prompt them to depose falsely against the accused. Learned counsel for the appellant could not point out any violation of mandatory provisions, which might have affected the credibility of the prosecution case.

The impugned judgment of conviction and order of sentence passed by the trial Court are well reasoned one, based upon proper appraisal and appreciation of evidence and correct interpretation of law. There is no illegality or infirmity therein. The said judgments of conviction and order of sentence are upheld whereas the appeal is found to be without any merit and the same is dismissed accordingly.

Intimation be sent to the quarter concerned.

23.2.2018

Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No