IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-D-54-DBA-2002
Date of decision: July 09, 2018

State of Haryana

.....Appellant

Versus

Jagir Singh .....Respondent

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI
HON'BLE MR. JUSTICE KULDIP SINGH

Present: Ms. Tanisha Peshawaria, DAG, Haryana.

Mr. Sandeep Kotla, Advocate for the respondent.

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A.B. CHAUDHARI, J.

Heard learned counsel for the State in the present appeal filed by the State of Haryana against Jagir Singh in the matter of his acquittal for charge under Section 18 of NDPS Act by the impugned judgment and order dated 03.03.2001.

Learned State counsel in support of the appeal filed by the State, submitted that the acquittal judgment of the trial Court is completely illegal and trial Court could not have acquitted the respondent. Respondent was found with 700 gms of opium and all compliances required by law were made and therefore there was no scope for the learned trial judge to record the order of acquittal. He therefore prays for reversal of the judgment of the acquittal.

Per contra learned counsel for the respondent submitted that the respondent is now 84 years old and is bed ridden at home. Apart from that, he supported the impugned judgment and order dated 03.03.2001 and submitted that the trial Court has given detailed reasons for recording the order of acquittal. The acquittal is based on several violations of the mandatory

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provisions of the N.D.P.S. Act including Section 50 & 55 of N.D.P.S. Act.

We have noticed the reasons recorded by the trial Court in support of violations of the amended provisions. However, without adverting to the same what we find, on merits are the discrepancies narrated in Para 20 of the judgment, which are as under:-

"20. There are following discrepancies in the statements of both the official witnesses Sh. K.K. Amrohi and Ram Niwas ASI the Investigating Officer:

(1) As per the statement of PW1 Sh. K.K. Amrohi, he received the telephone call at 2.00 P.M. and then remained on the spot upto 1 ½ hours, but as per the statement of PW2 Raghbir Singh, Inspector Sh. K.K. Amrohi, D.R.O. was also produced before him at 8.30 P.M.

This is a major contradiction in the statements of official witnesses, which proves that one of the official witness has deposed false.

(2) As per the statement of PW2 Raghbir Singh, Inspector Sh. K.K. Amrohi, D.R.O. was produced before him along with other witnesses, whereas as per the statement of ASI Ram Niwas, Sh. K.K. Amrohi was not produced before the S.H.O.

This is also a major discrepancy and proves that one of the official witness has deposed false.

(3) As per the statement of DRO PW1 Sh. K.K. Amrohi, in his presence the statements of other witnesses were not recorded, whereas as per the statement of ASI Ram Niwas, the statement of other witnesses Constable Sewa Ram and Constable Sham Lal were recorded in presence of D.R.O. PW1.

(4) PW1 Sh. K.K. Amrohi, the D.R.O. has failed to disclose the time when the Constable took the ruqua. Even he failed to disclose whether the said Constable returned on the spot or not. Even he had failed to disclose the name of said Constable.

This ignorance shown by D.R.O. On the material points makes his presence doubtful."

We agree with the above findings recorded by the trial Court as to the material discrepancies in the prosecution evidence found by the trial Court.

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We have no reason to interfere with the view taken by the trial Court as the same is probable & possible.

In the result, we do not find any merit in the present appeal and the same is hereby dismissed.

(A.B. CHAUDHARI)
JUDGE

(KULDIP SINGH)
JUDGE

July 09, 2018
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Whether speaking/ reasoned: Yes/No
Whether Reportable: Yes/No

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