

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

323

CRA-1056-SB-2004

Date of Decision : 15.01.2019

Nikka Singh

..... Appellant

versus

State of Punjab and others

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI

Present : None for the appellant.

Mr. Pawan Sharda, Sr.DAG, Punjab.

AJAY TEWARI, J. (Oral)

This appeal has been filed against the conviction of the appellant under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, “the Act”). As per the prosecution, the police party headed by SI Kuldip Singh alongwith police party was doing duty of patrolling, when they saw the appellant sitting on two bags. On seeing the police party he got perplexed and tried to slip away but was apprehended. SI Kuldip Singh being suspicious informed the DSP who came to the side. After giving them offer under Section 50 of the Act, the bags on which the appellant was sitting were searched and ultimately were found to contain approximately 65 kgs of poppy husk. Having been convicted, he has filed the present appeal.

None has appeared on behalf of the appellant.

The cursory readings of the facts reveals that ASI Kuldip Singh was the informer as well as the investigating officer.

In **Mohan Lal Vs. State of Punjab, 2018(4) RCR (Criminal) 101**, the Supreme Court after having considered the entire law on the subject has held as follows:-

“24. The view taken by the Kerala High Court in Kader (supra) does to meet our approval. It tantamounts to holding that the F.I.R. was a gospel truth, making investigation an empty formality if not a farce. The right of the accused to a fair investigation and fair trial guaranteed under Article 21 of the Constitution will stand negated in that event, with arbitrary uncanalised powers vested? with the police in matters relating to the NDPS Act and similar laws carrying a reverse burden of proof. An investigation is a systemic collection of facts for the purpose of describing what occurred and explaining why it occurred. The word systemic suggests that it is more than a whimsical process. An investigator will collect the facts relating to the incident under investigation. The fact is a mere information and is not synonymous with the truth. Kader (supra) is, therefore, overruled. We approve the view taken in Naushad (supra).”

The Senior Deputy Advocate General has accepted that the facts of the present case are covered by that case because in that case also it was a chance recovery and the gazetted officer was called and the recovery was made pursuant thereto there also the complainant had conducted the investigation of the case.

Resultantly, the appeal is allowed and conviction is set aside.

Appellant-Nikka Singh is acquitted of charges framed against him. Since,

he is on bail, his bail/surety bonds stands discharged.

January 15, 2019
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(AJAY TEWARI)
JUDGE

Whether speaking/reasoned	-	Yes/No
Whether reportable	-	Yes/No