

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-2944-2011

Date of Decision: 6.9.2019

Malkiayat Ram

.....Petitioner

Versus

State of Haryana

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Mr. N.S. Dhillon, Advocate, for the petitioner.

Mr. Randhir Singh, Additional AG, Haryana.

Harnaresh Singh Gill, J.

The petitioner was tried for committing the offences punishable under Sections 18(C) read with Section 27(b)(ii) and Section 18-A read with Section 28 of the Drugs & Cosmetic Act, 1940 (for short 'the Act'). Vide judgment dated 28.10.2009 and order dated 30.10.2009, the learned Additional Chief Judicial Magistrate, Fatehabad, found the petitioner guilty under Sections 27(b)(ii) and 28 of the Act and sentenced him RI for one year and to pay a fine of Rs.5000/- and, in default of payment of the fine, to further undergo RI for one month under Section 27(b)(ii) and RI for one year under Section 28 of the Act. Both the sentences were ordered to run concurrently.

Aggrieved of the judgment and order passed by the trial Court, the petitioner filed an appeal before the learned Sessions Judge, Fatehabad. However, vide judgment dated 12.11.2011, the learned Additional Sessions Judge, Fatehabad,

dismissed the appeal filed by the petitioner, thereby affirming the judgment and order passed by the trial Magistrate.

The criminal proceedings in the instant case were initiated on the basis of a complaint filed by complainant-Adarsh Goyal, the then District Drugs Inspector, Fatehabad, being public servant, to the effect on 21.5.1999, he along with Dr. Kulbhushan Garg, Medical Officer and Ram Kumar, Head Constable, visited the shop of the accused-petitioner. Upon inspection, 18 types of modern medicine (allopathic) were found to be stored in the shop, for sale. The accused-petitioner could not provide any valid licence or certificate of his being a registered Medical Practitioner nor could he provide any source of procuring the said medicines. The said medicines were seized and produced before the then SDJM, Fatehgabad with a request for the custody orders. The learned Court granted the said request. A registered notice dated 11.6.1999 as provided under the Act, was served upon the petitioner.

The accused was summoned. On appearance before the Court, he was released on bail on 31.10.2002.

The complainant led pre-charge evidence. Accused was charged under Sections 18(C) read with Section 27(b)(ii) and 18-A read with Section 28 of the Act. Charge upon having been explained to the accused, he pleaded not guilty and claimed trial.

In post charge evidence, the complainant got himself examined as PW1; Dr. Kulbhushan Garg as PW2 and Ram Kumar ASI as PW3.

Statement of accused under Section 313 Cr.P.C. was recorded, wherein he refuted all the allegations and pleaded innocence.

As noticed above, the learned trial Court found the petitioner guilty for the charges framed and punished him accordingly. Appeal filed by him was dismissed by the appellant Court.

I have heard learned counsel for the parties and have also gone through the record of the case.

At the very outset, the learned counsel appearing for the petitioner has, while confining his prayer to the quantum of sentence, submitted that occurrence in this case pertains to the year 1999 and since then the petitioner has been facing the agony of protracted trial. It is further stated that at the time of the alleged incident, the petitioner was less than 18 years of age and thus, the prime of his life stood lost while facing such proceedings. Further, it is submitted that the petitioner has already undergone 1 month and 13 days out of his substantive sentence of 1 year. Besides, the fine imposed by the Courts below, stands already deposited. Accordingly, a prayer is made that the sentence imposed upon the petitioner may be reduced to the one already undergone by him.

On the other hand, the learned State counsel has, while controverting the aforesaid submissions, argued that the guilt of the petitioner stood proved by way of cogent and convincing evidence and no ground is made out for interfering with the findings recorded by the Courts below.

Both the Courts below after having scrutinized the evidence on record, have rightly convicted the petitioner for the offences under Section 18(C) read with Section 27(b)(ii) and 18-A read with Section 28 of the Act for stocking and possessing the drugs without any licence and in contravention of the provisions of the Act. Though, the learned counsel for the petitioner did not lay challenge to the conviction part, yet in my opinion, in view of the evidence on record, there is no scope for interference in the findings of the Courts below, so far as the conviction part is concerned. Hence, the conviction of the petitioners as recorded by the trial Court and upheld by the appellate Court, is upheld.

While coming to the sentence part, the petitioner has already undergone the actual sentence of 1 month and 13 days. The occurrence in this pertains to the year 1999. Thus, after 19 years of the protracted trial, in my opinion, no useful purpose would be served by sending the petitioner behind the bars once again, to undergo the remaining part of sentence. Rather, ends of justice would be suitably met if the sentence imposed upon the petitioner is reduced to the period already undergone by him.

In view of the above, while upholding the conviction of the petitioners as recorded by the Courts below, the substantive sentence imposed upon the petitioner is reduced to the period already undergone by him, but subject to payment of fine of Rs.5,000/-, over and above the amount of fine already imposed by the learned trial Court. The said amount of fine shall be deposited by the petitioner before the learned trial Court, within a period of two months from today.

Revision Petition is disposed of in the above terms.

(HARNARESH SINGH GILL)
JUDGE

06.09.2019
ds

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No