

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRM-A-1344-2019 (O&M)
Date of Decision: 22.10.2019

State of Punjab

...Appellant

Versus

Balbir Singh @ Lala and another

...Respondents

CORAM:- HON'BLE MR. JUSTICE RAJAN GUPTA.
HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL.

PRESENT: Mr. IPS Doabia, Additional Advocate General, Punjab.

RAJAN GUPTA, J. (Oral)

This is an application under Section 378 (3) of the Code of Criminal Procedure seeking leave to appeal to challenge the judgment delivered by the Special Court, acquitting the accused of offences under Sections 15 and 29 of the Narcotic Drugs and Psychotropic Substance Act, 1985.

It has been, *inter alia*, contended by Mr. Doabia that the trial court has not correctly appreciated evidence and material on record before coming to the finding of acquittal. According to him, judgment is unsustainable in law.

It appears that on 11.9.2014, certain police officials intercepted a motorcycle on GT Road Khatkar Kalan. Two persons, namely, Balbir Singh @ Lala and Harmesh Lal @ Dara were riding on the same. On account tumbling of the motorcycle, the brown coloured substance got scattered on the road. It is alleged that from one of the plastic bags, poppy husk was recovered. Similarly, poppy husk was found in another bag. Two

samples of 250 grams each were taken and sent for forensic examination. After completing the investigation, final report was submitted before the court and as required under Section 207 of the Code of Criminal Procedure, copies were handed over to the accused. In order to bring home the guilt, prosecution examined as many as nine witnesses. In their statements, under Section 313 of the Code of Criminal Procedure, accused pleaded false implication. They opted to lead defence evidence but did not examine any witness. The trial court found discrepancies in the depositions of official witnesses. Even a single independent witness was not examined despite the fact that the motorcycle was intercepted at a thoroughfare place. It found grave contradictions in the statement of ASI Jarnail Singh who deposed as PW5. Quantity of contraband recovered was marginal higher than the commercial quantity. The accused were not produced before the gazetted officer at the time of conducting their search.

On a perusal of the judgment, we are of the considered view that it is not a fit case for grant of leave to appeal. Application is accordingly dismissed.

There is a delay of 11 days in filing the application for leave to appeal. Since, the application has been dismissed on merits, no further orders are required to be passed in the application for condonation of delay in filing the appeal.

(RAJAN GUPTA)
JUDGE

October 22, 2019
gbs

(MANJARI NEHRU KAUL)
JUDGE

Whether Speaking/Reasoned
Whether Reportable

Yes/No
Yes/No