

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

218

CRM-29718-2019 in
CRM-A-2204-2019 (O&M)
Date of Decision : 10.12.2019

State of Haryana

..... Appellant

Versus

Mukesh Kumar @ Sonu

..... Respondent

CORAM : HON'BLE MR.JUSTICE AJAY TEWARI
: HON'BLE MR. JUSTICE VIVEK PURI

Present : Ms. Tanisha Peshawaria, DAG, Haryana
for the applicant-appellant.

AJAY TEWARI, J. (Oral)

CRM-29718-2019

1. For the reasons recorded in the application, the same is allowed and delay of 75 days in filing the appeal is condoned.

CRM-A-2204-2019

2. This is an application for leave to appeal against the judgment of acquittal dated 7.3.2019 passed by Addl. Sessions Judge, Fatehabad in case FIR No. 644 dated 12.10.2015 under Sections 21 & 27-A of Narcotic Drugs and Psychotropic Substances Act, 1985 at P.S. City Fatehabad.

3. Brief facts are that on 12.10.2015, police party saw the respondent coming on motorcycle and on seeing the police party the respondent turned his motorcycle back but he slipped out and fell down. Ultimately, the respondent was apprehended with 45 bottles of Rexcof 100/100 batch No. AO4202 and 600 tablets of Carisoma batch No. CAR4020 in a plastic bag of yellow colour which he was carrying on oil

tank of the said motorcycle. The case was put up to trial and, as mentioned above the trial Court having acquitted the accused person the State is up in appeal.

5. Having gone through the judgment of the trial Court, we find that the Trial Judge has rightly recorded that there was a inconsistency in the resealing of the parcel after the inspection done by the Drug Control Officer. Secondly, the statements of Inspector and Drug Control Officer under Section 161 Cr.P.C were also not recorded. Further, ownership of the motorcycle was also not proved and even in the recovery memo the batch numbers, labels, name of manufactures, dates of manufacturing and expiry in respect of seized durgs were not mentioned. Moreover, there was also delay of 16 days in sending of the sample to FSL.

7. Consequently, we are not persuaded that the judgment of the trial Court is vitiated or that, in view of the infirmities pointed out in the judgment the prosecution has in fact been able to bring home the charge beyond reasonable doubt.

8. In the circumstances, we do not find any ground to grant leave to file appeal. Therefore, finding no merit in criminal miscellaneous application seeking leave to appeal, the same is dismissed.

(AJAY TEWARI)
JUDGE

(VIVEK PURI)
JUDGE

10.12.2019
anuradha

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