

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRM-27867-2019 in/and
CRM-A-2096-2019 (O&M)
Date of Decision: 07.12.2019

State of Haryana

... Applicant

vs.

Karan Yadav

.. Respondent

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

Present : Ms. Tanisha Peshwaria, Deputy Advocate General, Haryana.

AJAY TEWARI, J.(ORAL)

CRM-27867-2019

For the reasons stated in the application, delay of 164 days in filing the application for leave to appeal is condoned.

CRM-A-2096-2019

The present application has been filed under Section 378 (3) of Code of Criminal Procedure by State of Haryana seeking leave to appeal against the judgment of acquittal dated 18.12.2018 passed by Additional Sessions Judge, Ambala, vide which accused/respondent was acquitted in FIR No. 251 dated 20.07.2016 under Sections 18 (A) and 18 (C) of Drugs and Cosmetics Act, 1940 and under Sections 21 and 22 of the Narcotic Drugs and Psychotropic Substances Act registered at Police Station Ambala Cantt.

Brief facts of the case that on 20.07.2014, at about 5:00 P.M., a young boy was seen coming from the side of B.D.Flour Mill, who on seeing the policy party turned back and started walking swiftly. On query, he disclosed his name as Karan Yadav and was having a black colour

polythene in his right hand. On checking the said polythene, it contained two boxes of Alprazolam Tablets, each box containing 450 tablets and total 900 tablets were recovered. On weighment of the said tablets, it was found to be 144 grams and 30 strips of Spasmo Proxivon plus Capsules, each strip containing 24 capsules, total 720 capsules were recovered.

The learned Additional Sessions Judge, Ambala, acquitted the respondent on the ground that there were various discrepancies for the prosecution witnesses who were all official witnesses. No independent witness was joined in the investigation and, therefore, there was no corroboration of these witnesses. Further the seal used by the Investigating Officer i.e. PW1-ASI Kulwinder Singh was stated to be brass seal whereas PW12-Sahab Singh stated that the metal of the seal used by the Investigating Officer was of silver.

Investigating Officer, PW1-ASI Kulwinder Singh prepared the recovery memo Ex.P1, which was scribed by him at the spot and after producing the same before the DCO for his opinion, rukka Ex.P4 was sent for registration of an FIR. He further deposed that the entire recovery memo was prepared at that time and no addition and deletion was made subsequent thereto in the recovery memo.

However, perusal of recovery memo Ex.P1 shows that the FIR number was already mentioned in it. This casts doubt on the prosecution version.

Another discrepancy for the prosecution story is that CSFL form was not filled up at all on the spot which also creates doubt about the prosecution story and possibility of tampering with the seals and parcels cannot be ruled out. From the perusal of the record, it transpired that after

the alleged recovery, no CFSL form was prepared at the spot nor the same was deposited in Malkhana alongwith the case property as the prosecution witnesses are silent on this aspect.

In view of above, present application stands dismissed.

**(AJAY TEWARI)
JUDGE**

**(VIVEK PURI)
JUDGE**

07.12.2019.
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Whether speaking/reasoned : Yes/No
Whether Reportable : Yes/No