

**CRA-S-137-2020 (O&M) and
CRA-S-532-2020 (O&M)**

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

Date of Decision: 27.02.2020

CRA-S-137-2020 (O&M)

Ramesh

... Petitioner

v/s

State of Haryana

... Respondent

CRA-S-532-2020 (O&M)

Ramesh

... Petitioner

v/s

State of Haryana

... Respondent

CORAM: HON'BLE MR. JUSTICE VIVEK PURI

**Present: Mr. Abhishek Arora, Advocate
for the appellant in CRA-S-137-2020.**

Mr. Baljinder Singh Virk, DAG Haryana.

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VIVEK PURI, J. (ORAL)

CRA-S-532-2020

Registry has already reported that this is a duplicate appeal filed on behalf of the appellant as the earlier appeal bearing CRA-S-137-2020 has already been filed against the impugned judgment.

However, none has appeared in CRA-S-532-2020 today. Even none had appeared in this appeal on the previous date of hearing also. In the earlier instituted appeal Mr. Abhishek Arora, Advocate has already put in

appearance and is present today as such. The present appeal being duplicate, cannot be entertained as the same is not maintainable. Consequently, the same is dismissed without prejudice to the right of the appellant for adjudication of earlier instituted appeal. The earlier instituted appeal CRA-S-137-2020 is being disposed of today by separate judgment passed in the appeal.

CRA-S-137-2020

The present appeal has been preferred by appellant-Ramesh against the judgment of conviction and order of sentence dated 7.8.2019 passed by learned Addl. Sessions Judge-cum-Special Judge, Kurukshetra vide which he has been convicted under Section 20 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act') and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs. 5,000/- and in default thereof, to further undergo simple imprisonment for a period of 2 weeks.

Briefly, the case of the prosecution is to the effect that on 9.2.2018, SI Sewa Singh along with fellow police officials were patrolling and they spotted the appellant carrying a plastic polythene bag in his right hand. The appellant was apprehended and the search of the bag led to the recovery of 1 Kg 800 gms of ganja. The recovered contraband was converted into a parcel, sealed with a seal bearing impression SS. Thereafter, ASI Dinesh Kumar, the second Investigating Officer also arrived at the spot and conducted the proceedings. The appellant was also produced before the learned Illaqa Magistrate and two representative samples of 100 gm each were separated.

On completion of the investigation, challan was presented, charges were framed under Section 20 of the Act, to which the appellant pleaded not guilty and claimed trial.

To substantiate the version, the prosecution examined 8 witnesses besides producing documentary evidence. The statement of the appellant under Section 313 Cr.P.C. has been recorded but he has not led any defence evidence.

Vide judgment dated 7.8.2019, he was sentenced as aforesaid.

Aggrieved by the judgment of the Court below, the appellant has preferred the present appeal.

During the course of hearing, learned counsel for the appellant has not disputed the findings of conviction as recorded by the learned trial Court and has only prayed for leniency in the matter of sentence. A perusal of the lower Court record also indicates that SI Sewa Singh, PW6 has effected the recovery in the presence of HC Gurbax, PW8. Both the witnesses have deposed in satisfactory manner with regard to the material aspect of the recovery of incriminating articles from the possession of the appellant. The finding of conviction has been recorded on the basis of reliable and satisfactory evidence establishing the guilt of the appellant beyond the shadow of reasonable doubt and as such, and the same does not call for any interference of this Court.

Accordingly, the judgment of conviction as recorded by the Court below is affirmed.

With regard to quantum of sentence, it has been pointed out by learned counsel for the appellant that appellant is not a previous convict, he

is a poor person having his wife, who has since died.

Custody certificate has been placed on record which indicates that the appellant has undergone actual imprisonment for a period of 08 months and 04 days.

The quantity of contraband recovered from the possession of the appellant is marginally above the small quantity and in such circumstances, some more leniency in the matter of sentence can be extended to the appellant. As such, the sentence of the imprisonment imposed upon the appellant is reduced to the period already undergone without alteration with regard to the sentence of fine.

With the aforesaid partial modification in the quantum of sentence, the appeal is dismissed. The appellant be released forthwith, if not required in any other case, if the amount of fine has been paid by him.

27.02.2020

Janki

**(VIVEK PURI)
JUDGE**

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No