

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

CRA-S-2225-SB-2004

Date of decision: 24.2.2020

Punjab Singh

...Appellant

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MR.JUSTICE JITENDRA CHAUHAN

Present: Mr.BS Saroha, Advocate for the appellant

Mr.Vikrant Pamboo, DAG, Haryana

JITENDRA CHAUHAN, J.

The present appeal is directed against the judgment and order dated 16/18.10.2004 passed by Additional Sessions Judge, Fatehabad, whereby the accused–appellant has been sentenced to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.15,000/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of six months under Section 15 of the Narcotic Drugs & Psychotropic Substances Act (in short 'the Act').

The trial Court noticed the facts of the present case in para No.2 the impugned judgment, which are as under:-

“.... on 22.4.2002 ASI Om Parkash was present at Bus Stand, Bhuna alongwith other police officials and he was talking with Khajan Singh Panch when the accused was seen coming from the side of Fatehabad on a scooter. On seeing the police party,

he had tried to turn back and so was apprehended on suspicion. On search the accused was found to be carrying 17 kg. of poppy husk. Consequently, the Investigating Officer had sent a ruqqa to the police station on the basis of which formal FIR was registered in this case.”

On completion of the investigation, challan was prepared and presented in the Court. The accused/appellant was charge-sheeted under Section 15 of the Act, to which he pleaded not guilty and claimed trial.

To prove its case, the prosecution had examined HC Raghbir Singh as PW1, HC Banshi Singh as PW2, HC Baldev Singh as PW3, SI Vir Singh as PW4, UGC Sat Pal as PW5 and ASI Om Parkash as PW6.

When examined under Section 313 Cr.P.C., the accused denied all the incriminating circumstances appearing in the prosecution evidence against him and pleaded innocence. In his defence, he did not adduce any evidence.

After hearing learned counsel for the parties, learned trial Court convicted and sentenced the accused as noticed at the outset of this judgment.

Feeling aggrieved by the judgment/ order of the learned Trial Court, the appellant had preferred this appeal.

At the very outset, learned counsel for the appellant states that he does not wish to challenge the judgment of conviction dated 16.10.2004 and confine his prayer only to reduction in quantum of sentence awarded vide order dated 18.10.2004 to the sentence already undergone by the appellant in the instant case, as the appellant is a poor person and having

two sons and three daughters and is the only earning member of his families.

Hon'ble the Supreme Court in 2006(4) R.C.R. (Criminal) 645 titled as "**R. Soundarajan V. Seed Inspector, Coimbatore and another**" observed as under:-

"26. We have carefully perused the entire evidence and documents on record and heard the learned counsel for the parties at length. On consideration of the totality of the facts and circumstances of this case, particularly in view of the statement made by the learned counsel for the State, in our considered view, the ends of justice would be met, if the sentence of the appellants is reduced to the period already undergone by them. The appellants were released by this Court during the pendency of these appeals and they are now not required to surrender. The fine as imposed by the trial Court, if not already paid, would be paid within four weeks from the date of this judgment"

Though, the learned counsel for the appellant has not challenged the judgment of conviction on merits, yet this Court has scanned the entire evidence on record and finds that the trial Court has rightly convicted the appellant for the commission of offence under Section 15 of the Act. The testimonies of the recovery witnesses namely PW6 ASI Om Parkash and PW2 HC Bansi Singh are above board and they have withstood the test of cross-examination. There are minor discrepancies in their testimonies, which do not go to the root of the case. Learned trial Court has correctly placed implicit reliance on their depositions. The case of the prosecution is

fully proved. Therefore, the judgment of conviction is hereby upheld.

As regards the quantum of sentence, the appellant has undergone 7 months and 11 days including remission of 23 days out of the total substantive sentence of three years. The sentence of the appellant was suspended by this Court on 21.2.2005. The FIR in the instant case was registered in the year 2002. The appellant has suffered protracted trial of more than 17 years. The recovery is non-commercial. Therefore, the Court feels that the ends of justice would be met if the sentence of imprisonment awarded to the appellant is reduced to the period already undergone by him. However, the same shall be subject to deposit of Rs.15,000/- as costs over and above the fine already imposed and the same shall be deposited with the Poor Patients Funds in PGIMER, Chandigarh within 45 days from the date of receipt of the certified copy of this judgment, failing which, the appeal shall be deemed to be dismissed without further notice.

The present appeal is partially allowed and the judgment and order of the learned trial Court stands modified to the extent indicated above.

24.2.2020
gsv

(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned?

Yes / No

Whether reportable?

Yes / No