

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CRR No. 1127 of 2020 (O&M)

Date of Decision: October 30, 2020

Shabana Sheikh and others

.....Petitioners

versus

Narcotic Control Bureau Chandigarh

.....Respondent

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTAL

Present: Mr. Ashish Pal Kaushal, Advocate
for the petitioners

Mr. Rajiv Sharma, Advocate
for the respondent

Sudhir Mittal, J. (Oral)

The petitioners assail order dated 27.08.2020 whereby their application under Section 167(2) Cr.P.C. has been rejected.

The factual matrix in brief.

The petitioners were arrested on 26.02.2020 on account of registration of case Crime No. 14 dated 26.02.2020 registered under Sections 8, 20, 23(C), 27(A), 28, 29 and 60 of the NDPS Act, 1985 at NCB, Chandigarh. According to Section 36-A(4) of the NDPS Act, 1985 a period of 180 days is available to the investigating agency for presentation of challan in cases involving recovery of commercial quantity of narcotics. Admittedly, the period of 180 days expired on 24.08.2020. Thus, application dated 25.08.2020 was filed by the petitioners for grant of default bail. The said application has been rejected by the trial Court on the ground that infact challan was presented on 20.08.2020 i.e. before expiry of period of 180 days.

Thus, the only question for decision in this case is whether the finding returned by the trial Court that the challan was infact presented on 20.08.2020 is

For this purpose record was summoned. It has been received and perused.

Learned counsel for the petitioners submits that whenever a challan is presented it is examined and registered on the same date. In this case the challan was registered on 26.08.2020 as is evident from the endorsement dated 26.08.2020 of the Ahlmad on the challan at page 9 of the record. He further submits that a perusal of the case details available on the net (copy annexed as Annexure P-4) shows that the challan was filed on 26.08.2020 and the next date of hearing was 05.09.2020. Thus, the trial Court has erred in concluding that the challan was infact presented on 20.08.2020.

Learned counsel for the respondent, however, draws attention of this Court to zimni order dated 20.08.2020 at page 5 of the record wherein the factum of presentation of the challan on the said date is recorded. He submits that the challan could not be checked and registered on the same date as Dr. Ajit Attri, Judge, Special Court was quarantined on account of COVID-19 infection. It is, thus, submitted that no error has been committed by the trial Court.

At page 5 of the record, zimini order dated 20.08.2020 exists wherein the factum of presentation of the challan is reflected. The challan is referred to as 'fresh complaint' and the zimni has been recorded by the Additional Sessions Judge (Duty). It is also recorded that the Additional Sessions Judge (Duty) is dealing with urgent matters as Dr. Ajit Attri, Judge, Special Court is on leave. The challan was registered on 26.08.2020 as the Ahlmad was directed to check the same and report on 26.08.2020. It could not have been registered earlier as Dr. Ajit Attri was on leave on account of corona virus infection. Thus, departure from the practice of registration of challan on the date it is presented, is understandable.

The case details on the internet (copy annexed as Annexure P-4)

not find mention probably because the software can not accept two separate dates for filing of the challan and registration thereof. Further perusal of the case details shows that the next date of hearing mentioned therein is 05.09.2020, although according to the record the next date of hearing after 26.08.2020 was 01.09.2020. Thereafter, the case was taken up on 11.09.2020. Thus, it appears that there was some error in updating the case details. The absence of the date i.e. 20.08.2020 could also be on account of the same reason.

Thus, the petition has no merit and is dismissed.

Record of the trial Court be returned forthwith.

October 30, 2020

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No