

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 796 of 2001**

1. Prashantoo, aged 22 yeras, S/o. Sharada ishwar, R/o Kennanpalli M.P.V. 77, District Malkangiri (Odissa)
2. Smt. Amela, W/o. Shivpata Mandal, aged 35 years.
3. Smt. Jamoona, W/o. Atul Mistri, aged 32 years,
Both 2 & 3 occupation housewife, R/o. MV 80 P.S. 79, District Malkangiri (Odissa)

---- Appellants**Versus**

- State of Chhattisgarh.

---- Respondent

For Appellants	:	Ms. Savita Tiwari, Adv.
For Respondent/State	:	Mr. Ishwar Jaiswal, PL

Hon'ble Smt. Justice Rajani Dubey**Order On Board****16.09.2021**

1. The present appeal arises out of the impugned judgment of conviction and order of sentence dated 04.07.2001 passed by the learned Special Judge, NDPS Act, Bastar, Jagdalpur in Special Case No. 22/2001 whereby, the learned Court below has convicted the appellants for the offence punishable under Section 20(B)(1) of Narcotic Drugs and Psychotropic Substance Act and sentenced them to undergo R.I. for one and a half year and to pay fine of Rs. 3,000/- with default stipulation.

2. The prosecution case, as unfolded from the impugned judgment and the records of the case is that on 20.03.2001, on being informed, Police Personnel searched the bus in which the appellants were traveling and seized 5 kg contraband article cannabis (Ganja) from the possession of appellant Prashant, 5 kg of

contraband article cannabis (Ganja) from the possession of appellant Amela Bai and 12 kg of contraband article cannabis (Ganja) from the possession of appellant Smt. Jamoona. After completion of investigation charge was framed against the appellant under Section 20(b)(1) of Narcotic Drugs and Psychotropic Substance Act.

3. So as to hold the accused/appellants guilty, the prosecution has examined as many as 5 witnesses. Statement of the accused/appellants were also recorded under Section 313 of the Cr.P.C. in which they denied the charge leveled against them and pleaded innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment of conviction and order of sentence dated 04.07.2001 learned Special Judge has convicted and sentenced the appellants as mentioned above in para 1 of this order. Hence, the present appeal filed by the appellants.

5. Learned counsel for the appellants submits that she is not pressing the appeal so far as it relates to the conviction part of the judgment and would confine her argument to the sentence part thereof only. According to her, appellants are facing the *lis* since 2001, i.e. for the last 20 years. Out of the total jail sentence of one and a half year, appellants 1 & 2 have completed their jail sentence and appellant No. 3 Smt. Jamoona has already undergone about 10 months. The age of appellant Prashantoo, Smt. Amela & Smt. Jamoona is 42 years, 55 years & 52 years, respectively and no useful purpose would be served in again sending them to jail, therefore, in the interest of justice, it would be appropriate if the sentence imposed upon them may be reduced to the period already undergone by them.

6. Learned counsel for the State opposed the prayer made by learned counsel for the appellants and supported the impugned judgment.

7. Heard learned counsel for the parties and perused the material on record including the impugned judgment.

8. Having gone through the material on record and the evidence of the witnesses Basantram Markma (PW-1), Pintoo Dongre (PW-2), P.G. Kujur (PW-3), Ramfer Yadav (PW-4) and Premu (PW-5), involvement of the accused/appellants in the crime in question stands proved beyond reasonable doubt. This Court does not see any illegality in the findings recorded by the Court below as regards conviction of the appellants under Section 20(B)(1) of Narcotic Drugs and Psychotropic Substance Act.

9. As regards sentence, keeping in view the facts that incident had taken place in the year 2001, and further that the appellants 1 & 2 have completed their jail sentence and appellant No. 3 Smt. Jamoona has already undergone about 10 months, therefore, their sentence are liable to be reduced to the period already undergone by them.

10. In view of the above consideration, the appeal is partly allowed. While maintaining the conviction of the appellants, they are sentenced to the period already undergone by them.

**Sd/-
(Rajani Dubey)
JUDGE**

V/-