

HIGH COURT OF CHHATTISGARH, BILASPUR**Cr.A . No. 299 of 2013**

1. Pintoo @ Mahesh, S/o Ram Bharosa Yadav, Aged About 22 Years R/o In Front of Rao Pathology Mahasamund Distt. Mahasamund, Chhattisgarh.
2. Sonu Sendre, S/o Chandu Sendre Aged About 20 Years, R/o Infront of Rao Pathology Mahasamund Distt. Mahasamund C.G.

---- Appellants**Versus**

- State of Chhattisgarh Through Distt. Magistrate Raipur, Chhattisgarh.

---- Respondent

For Appellants : Shri Pritam Tiwari, Advocate.

For Respondent/State : Shri Akhtar Hussain, Panel Lawyer.

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****16/07/2021**

1. This appeal has been preferred against the judgment dated 14/03/2013 passed in Special Criminal Case No.58/2011 by the Special Judge (Narcotic Drugs and Psychotropic Substances Act, 1985), Raipur, (C.G.), whereby the appellants have been convicted under Section 20 (b) (ii) (b) of N.D.P.S. Act and sentenced to undergo R.I. for 6-6 months and fine of Rs. 5,000/-5,000/- each, with default stipulations.
2. According to the case of prosecution, on 01/10/2011, Meeluram Kanwar, Assistant Sub-Inspector, received an information from the informant that two persons are going on motorcycle bearing

registration number CG 06 K 9473 and are in possession of some contraband *ganja*. Upon receiving such information, he recorded the said information in Rojnamcha Sanha, called the witnesses, necessary procedures were followed and thereafter, police personnel reached the spot. On being searched, total 2 Kg and 300gm of contraband *ganja* was found and seized from their possession. Thereafter, two sample packets of 25-25 gms each were prepared. Seizures were made and after following other formalities, sample packets were deposited in Malkhana. After completion of investigation, a charge-sheet was filed. The Trial Court framed the charges. To prove the guilt of the accused/appellants, prosecution has examined as many as 6 witnesses. No defence witness has been examined. Statement of the appellants under Section 313 of the Cr.P.C has been recorded, wherein they have pleaded innocence and false implication in the matter.

3. After trial, the trial Court has convicted and sentenced the appellants as mentioned in paragraph one of this judgment. Hence, this appeal.
4. A certificate of incarceration sent by the Jail Superintendent, Central Jail, Raipur, (C.G.) dated 01/03/2021 would mention that appellant No.1 namely Pintu @ Mahesh and appellant No.2 namely Sonu Sendra have undergone the entire jail sentence imposed upon them by the trial Court and already released on 09/11/2013 & 03/10/2013 respectively.
5. Learned Counsel appearing on behalf of the appellants submits that

appellants are innocent and have been falsely implicated in the case. They are wrongly convicted by the trial Court without there being any sufficient and clinching evidence against them. He further submits that seizure witnesses of the case have not supported the case of the prosecution. There are material contradictions and omissions occurred in the statements of the witnesses. Therefore, conviction of the appellants are not sustainable.

6. Per contra, learned Counsel appearing for the State supports the impugned judgment and submits that sentence awarded by the trial Court is just and proper and requires no interference.
7. I have heard learned Counsel appearing for the parties, perused the record, statement of witnesses and other documents annexed with the record minutely.
8. Though seizure witnesses have not supported the case of the prosecution but Investigating Officer of the case namely Meeluram Kanwar, A.S.I. (PW-5) has supported the entire case of the prosecution and deposed according to the case of prosecution. His statement is duly corroborated by other prosecution witnesses i.e. Jainath Singh (PW-3), Aatmaram Bharti (PW-4) and Sonprasad Rajetri (PW-6). All the above witnesses have remained firm during their cross-examination. There is nothing on the record on the basis of which their statements can be dis-believed.
9. Looking to the evidence adduced by the prosecution, it is clear that there is sufficient evidence against the appellants to hold them guilty.

In my considered view, the trial Court has rightly convicted the appellants.

10. Consequently, the appeal has no merit and is, therefore, dismissed.
11. Records of the Court below be sent back along with a copy of this order forthwith for information and necessary compliance.

Sd/-
(Arvind Singh Chandel)
Judge