

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

CRA-S-1366-SB-2007
Date of decision:-18.5.2022

State of Haryana

...Appellant

Versus

Rattan Singh

...Respondent

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.S.S. Pannu, DAG, Haryana.

H.S. MADAAN, J.

1. Accused Rattan Singh son of Chhotu Ram, resident of village Sisar, District Hisar was tried by Additional Sessions Judge, Hisar in case FIR No.253 dated 30.9.2001 for an offence under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as '**the Act**'), registered with Police Station Narnaund.

2. Briefly stated, the facts of the case as per the prosecution version are that on 30.9.2001 while the police party being led by ASI Hari Chand was present at Madan Heri-Sisar Chowk, Sisar in connection with patrolling, then the accused was observed standing on the road towards the side of village Sisar carrying a PARNA (a piece of cloth) in his right hand; on seeing the police party, the accused started walking towards

Sisar side briskly; the police party followed him but he managed to escape, however, he left behind the PARNA; the accused was already known to ASI Hari Chand and Head Constable Naresh Kumar; the PARNA left by the accused on being checked was found to have a polythene of black colour containing CHARAS; 20 gms. of CHARAS was drawn therefrom as sample and remaining CHARAS on being weighed came out to be 680 gms.; the sample and the remainder were converted into sealed parcels and taken into police possession; ruqa was sent to the police station, on the basis of which formal FIR was registered. Investigation in the case started.

3. Accused could not be arrested. He was got declared as a proclaimed offender from the Court of Judicial Magistrate Ist Class, Hansi vide order dated 7.5.2002. Subsequently, he was arrested in this case on 3.6.2005. On completion of investigation, he was challaned.

4. When the trial got completed, learned Additional Sessions Judge, Hisar vide judgment dated 8.12.2006 acquitted the accused of the charge framed against him under Section 20 of the Act.

5. Feeling dissatisfied with such judgment, the State of Haryana had approached this Court by way of moving an application under Section 378(3) Cr.P.C. (as amended upto date) for grant of leave against such judgment of acquittal. The leave was accordingly granted and the case was admitted for regular hearing vide order dated 16.7.2007. Now it has come up for regular hearing.

6. I have heard learned State counsel besides going through the record.

7. A perusal of the impugned judgment goes to show that the trial Court had acquitted the accused of the charge framed against him for various reasons, which are enumerated as under:

- (i) The prosecution version that accused was known to ASI Hari Chand and HC Naresh Kumar earlier was found to be untrustworthy by referring to the depositions of PW5 HC Naresh Kumar and PW6 ASI Hari Chand.
- (ii) The presence of accused at the spot was found to be doubtful. Referring to the statements of DW1 Jaibir Singh, DW2 Dushyant and DW3 Umed Singh, co-villagers of the accused, the trial Court drew an inference that accused is a permanent resident of village Sisar and had been residing there, then it is difficult to understand as to why he was arrested after about 4 years of registration of the FIR.
- (iii) It is highly improbable that accused could not be apprehended by four police officials, who were on duty.
- (iv) The place of recovery is a busy one but no independent witness was joined with the investigation despite easy availability, rendering the prosecution case doubtful.
- (v) There was unexplained delay of 21 days in depositing the sample parcels with FSL, as such there was possibility of tampering of seals and substance being changed.
- (vi) There were a number of discrepancies in the statements of official witnesses, which were pointed out in detail in para No.37 of the judgment.

The cumulative effect of all such flaws was that the prosecution story became doubtful and the prosecution had failed to establish its case against the accused beyond a shadow of reasonable doubt, resulting in acquittal of the accused.

8. The judgment of acquittal passed by the trial Court is well reasoned one, based upon proper appraisal and appreciation of evidence and correct interpretation of law. It can certainly be not termed as perverse, arbitrary or suffering from any illegality or infirmity. I do not find any reason to interfere with this judgment.

9. The appeal is found to be without merit, hence it stands dismissed.

18.5.2022
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(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : No / Yes

Whether reportable : No / Yes