

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

(1) **CRA-S-2285-SB-2007(O&M)**

Dharam Pal and another

...Appellants

Versus

State of Haryana

...Respondent

(2) **CRA-S-2332-SB-2007(O&M)**

Sukha Singh and another

...Appellants

Versus

State of Haryana

...Respondent

Date of decision:-19.9.2022

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

Argued by :Mr.KPS Virk, Advocate
for the appellants in **CRA-S-2285-SB-2007**.

Mr.A.S. Dhindsa, Advocate
for the appellants in **CRA-S-2332-SB-2007**

Mr.Vijesh Sharma, Addl.A.G., Haryana.

H.S. MADAAN, J.

1. Vide this judgment, I propose to dispose of two appeals i.e. **CRA-S-2285-SB-2007** filed by appellants Dharam Pal son of Prabhu Ram and Major Singh son of Gurcharan Singh, both residents of Safidon, District Jind and **CRA-S-2332-SB-2007** filed by appellants Sukha Singh son of Assa Singh and Malkiat Singh son of Sukha Singh, both residents of Dera Gondar, P.S.Nissing, District Karnal, all of them being accused in case bearing FIR No.294 dated 20.9.2005, under

Sections 15, 25 & 27-A of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as '**the Act**'), registered with Police Station Nissing.

2. The Appellants-accused are aggrieved by judgment dated 27.9.2007 passed by Judge, Special Court, Karnal who by observing that 198 kgs. poppy husk was recovered from the possession of accused Sukha Singh, Malkiat Singh, Major Singh and Dharam Pal, convicted them for an offence under Section 15(c) of the Act, whereas finding that the prosecution had failed to home guilt against accused Nishan Singh, Resham Singh and Darbara Singh beyond shadow of reasonable doubt, such accused were acquitted of the charge. Vide order passed on 29.9.2007, accused Sukha Singh, Malkiat Singh, Major Singh and Dharam Pal were sentenced to undergo rigorous imprisonment for ten years each and to pay a fine of ₹1,00,000/- each and in default thereof to further undergo rigorous imprisonment for a period of two years each.

3. In nutshell, the case of the prosecution is that on 20.9.2005, SI Rambhaj along with SI Ramesh Chand, HC Surinder Pal, HC Sita Ram, Constable Jitinder Kumar and Constable Balwan Singh from Police Station Nissing, District Karnal was travelling in Government Gypsy No.HR-05F-0123 driven by Constable Daler Singh and they were on patrol duty; when the police party reached on the culvert of drain, while proceeding towards village Dacher, SI Rambhaj received a secret information that a truck bearing registration No.HR56-1889 was parked at Dera of Sukha Singh for unloading the bags of poppy husk brought by Dharam Pal son of Prabhu Ram, Major Singh son of Gurcharan Singh, Nishan Singh son of Gurdev Singh, Daljit Singh son of Bachan Singh

and Resham Singh son of Bahadur Singh and that Sukha Singh and his brother Darbara Singh as well as his son Malkiat Singh of Dera Gonder had been indulging in drug trafficking; the information received was also to the effect that accused had unloaded some bags of poppy husk at Dera of Gurdeep Singh in the area of village Dacher and if a raid was conducted there, some quantity of poppy husk could be recovered.

On receipt of such information, two raiding parties were formed, one headed by SI Rambhaj and other by SI Ramesh Chand. The information was passed on to Sh.Vijay Brara, DSP Headquarter, Karnal. SI Rambhaj along with HC Surinder Pal and Constable Jatinder Kumar proceeded towards Dera of Sukha Singh in a gypsy, whereas the other party headed by SI Ramesh Chand went towards Dera of Gurdeep Singh. When the police party headed by SI Rambhaj reached at the Dera of Sukha Singh, they saw a truck bearing No.HR56-1889 parked in front of house of Sukha Singh; four persons were standing in the truck unloading gunny bags of poppy husk from the truck, whereas four persons standing on the ground were holding the bags; on seeing the police party, four persons, who were standing on the ground ran away from the spot, however, four persons in the truck were apprehended by the police party and on being inquired, they disclosed their names as Sukha Singh son of Asha Singh, Malkiat Singh son of Sukha Singh, Dharam Pal son of Prabhu Ram and Major Singh son of Gurcharan Singh, whereas the names of the persons, who had managed to escape from the spot came to be known as Nishan Singh son of Gurdev Singh, Daljit Singh son of Bachan Singh, Resham Singh son of Darshan Singh and Darbara Singh son of Asha Singh.

Since SI Rambhaj suspected the gunny bags to be containing some narcotic substance, therefore, he served notice Ex.P10 under Section 50 of the Act upon all the four persons apprehended inquiring from them whether they wanted the bags to be searched in presence of some gazetted officer or a Magistrate; in response thereto vide reply Ex.P11, all the four accused opted to get the search carried out in presence of some gazetted officer; Sh.Vijay Brara, DSP along with his staff had reached at the spot in the meanwhile; he was apprised about the facts of the case by SI Rambhaj; DSP Vijay Brara vide written order Ex.P3 directed SI Rambhaj to conduct the search of the bags; the search of the six bags revealed that those were containing poppy husk; two samples of 250 grams each were separated from each bag and on being weighed, the residue in each bag came out to be 32 kgs. 500 grams; the samples and bags containing residue poppy husk were converted into parcels, sealed with the seal of SI Rambhaj having inscription 'RB'; DSP Vijay Brara also affixed his seal having impressions 'VKB' on the parcels; thereafter the sample parcels and bulk parcels were taken into police possession by SI Rambhaj vide recovery memo Ex.P4 attested by Constable Jatinder and HC Surinder Pal; DSP Vijay Brara has also appended his signatures thereon; SI Rambhaj had handed over his seal after use to HC Surinder Pal; SI Rambhaj prepared rough site plan of the place of recovery as Ex.P14; he sent ruqa Ex.P15 to the police station through Constable Jatinder Kumar on the basis of which formal FIR Ex.P16 was recorded by HC Hari Kishan, who made endorsement Ex.P16/1 on the ruqa so as to apprise the Investigating Officer of the FIR number; all the accused were arrested in this case as

per rules preparing the requisite documents.

On return to the police station, the accused along with the case property were produced before Inspector Isham Singh, SHO of the Police Station Nissing, who after verification of the facts of the case, affixed his own seal having inscription 'ISR' on the sample parcels and bulk parcels. The case property was deposited with the MHC. Report under Section 57 of the Act was also prepared by SI Rambhaji.

On 21.9.2005 while being interrogated, accused Major Singh suffered a disclosure statement Ex.P6 in presence of HC Sukhpal Singh, an attesting witness that on 2.9.2005, he along with Daljit Singh had brought 200 bags of Chhilka and 60 bags of Churi in truck No.HR45-7122 from Indore after unloading the rice there and they had gone to Nawai, District Kota, Rajasthan from there they had purchased 42 bags of poppy husk at the rate of Rs.6,700/- per bag; they had put those bags underneath the bags of Chhilka and Churi; they had reached Gohana on the intervening night of 19/20.9.2005 and on the direction of Nishan Singh, they had parked the truck at Gohana; on 20.9.2005 on receipt of message on telephone from Nishan Singh, they had brought the truck to the hotel of Satnam Singh alias Satta at Gohana; Resham Singh and Darshan Singh alias Pappu and one Bittu met them there; all those persons were in trafficking of poppy husk; only 22 bags of poppy husk were unloaded from the truck No.HR45-7122 and those bags were unloaded in truck No.HR56-1889; two bags of poppy husk were taken by Pappu on his scooter; thereafter, they followed Daljit Singh, Resham Singh, Darshan Singh and Nishan Singh, who were going on bicycles to unload remaining bags of poppy husk; first of all they unloaded four

bags of poppy husk in truck of Kashmir Singh, resident of Bohli and thereafter they unloaded six bags near Malikpur and two bags at Assandh, Karnal road near bus stand of village Thari and one bag was unloaded near Radha Swami Satsang, Jalmana; three bags were unloaded near village Dacher; they had unloaded six bags at Dera of Sukha Singh when they were apprehended by the police and other accused Nishan Singh, Daljit Singh, Resham Singh and Darbara Singh were able to escape. Accused Major Singh further stated that he along with Dharam Pal could lead the police party to the disclosed place where they had unloaded the bags of poppy husk.

A similar disclosure statement Ex.P7 was made by accused Dharam Pal while being interrogated on 21.9.2005 in presence of HC Jagdish.

On 21.9.2005, the case property along with the accused were produced before JMIC, Karnal, who after inspecting the case property issued certificate Ex.P17.

On 7.10.2005, SI Rambhaj recorded statements of HC Hari Kishan and Constable Balwant Singh. Photographs of truck Ex.P18 and Ex.P19 were taken.

Thereafter, on 22.9.2005, the investigation of the case was entrusted to ASI Lila Ram, who arrested accused Resham Singh on 22.9.2005 and Nishan Singh on 26.9.2005. Nishan Singh suffered a disclosure statement Ex.P8 stating that he was having two trucks, which he had been using for bringing poppy husk from Rajasthan and Madhya Pradesh and he had been charging Rs.1,500/- per bag of poppy husk from other States. He stated that truck No.HR56-1889 was in fact in the

name of his father Gurdev Singh and other truck No.HR38C-7122 had been purchased by him from Delhi. He also deposed regarding sending of truck to Indore. He had got the place, where they had exchanged the poppy husk, identified on 27.9.2005. A site plan on the basis of Fard Nishandei Ex.P9 was prepared in that regard. The truck along with its documents was taken into police possession on 20.9.2005 by SI Rambhaji vide recovery memo Ex.P12.

Accused Darbara Singh had surrendered in the Court on 29.4.2006 and he was joined in the investigation of the case. Supplementary challan against that accused was filed in the Court. During the course of investigation, accused Kashmir Singh and Gurprit Singh were found to be innocent, whereas accused Daljit Singh could not be apprehended and was declared as proclaimed offender. After completion of investigation and other formalities, challan against the accused was prepared and filed in the Court.

4. On presentation of the challan, copies thereof were supplied to the accused free of costs, as envisaged under Section 207 Cr.P.C.

5. Then on observing that prima facie charge for an offence under Section 15(c), 25 and 27-A of the Act was disclosed against the accused, they were charge-sheeted accordingly, to which, they pleaded not guilty and claimed trial.

6. During the course of its evidence, the prosecution examined 13 witnesses, namely, PW1 DSP Isham Singh, PW2 Inspector Gurdaya Ram, PW3 Constable Balwant Singh, PW4 DSP Vijay Brara, PW5 HC Hari Kishan, PW6 HC Sukhpal, PW7 ASI Jagdish, PW8 Constable Jaspal Singh, PW9 HC Randhir Singh, PW10 HC Surinder Kumar,

PW11 HC Joginder Singh, PW12 SI Rambhaj and PW13 ASI Lila Ram.

The prosecution had also tendered in evidence report from Forensic Science Laboratory (FSL), Haryana, Madhuban as Ex.PX.

7. After closure of prosecution evidence, statements of the accused were recorded under Section 313 Cr.P.C., in which all the incriminating circumstances appearing in the prosecution evidence against them were put to such accused but they denied the allegations contending that they were innocent and had been falsely involved in this case on account of enmity and party factionalism in the village.

8. During their defence evidence, the accused examined DW1 Harvinder Singh, Draughtsman, District Court, Karnal, who proved the site plan prepared by him as Ex.D1.

9. With that the evidence of defence stood closed.

10. After hearing arguments, learned trial Court convicted and sentenced the accused Sukha Singh, Malkiat Singh, Major Singh and Dharam Pal as mentioned above, which left them aggrieved and they had filed the present appeals, which were admitted for regular hearing and recovery of fine was ordered to remain stayed. On applications under Section 389 Cr.P.C. having been filed by the appellants/accused for suspension of their sentence of imprisonment during the pendency of appeals, the same were allowed and remaining sentence of appellants/accused was suspended during the pendency of the appeals and they were ordered to be released on bail on their furnishing adequate bail bonds/surety bonds to the satisfaction of the CJM, Karnal.

11. Now the appeals have come up for final hearing.

12. I have heard learned counsel for the appellants – accused -

convict, learned Addl.A.G., for the State of Haryana besides going through the record.

13. Here the witnesses of recovery, namely, PW4 DSP Vijay Brara, who was present at the place of recovery and in whose presence the recovery had been effected, as a result of search of the bags conducted under his direction, PW10 HC Surinder Kumar, who was member of the raiding party, which had apprehended the accused and effected recovery of contraband from them and PW12 SI Rambhaj, had fully supported the prosecution story with regard to accused having been found in conscious possession of contraband. They were cross-examined at length on behalf of the accused but they stuck to their guns and could not be shattered on any material point. No previous enmity between them and the accused – convicts has been alleged or proved prompted by which they might have involved the accused in this case wrongly and depose against them falsely to secure their conviction. The account given by these PWs come out to be worthy of reliance. Though they are official witnesses but merely for that reason, their depositions cannot be suspected. Learned Single Judge of this Court in case **Jaswant Singh alias Jassa Versus State of Haryana, 2005(1) RCR(Criminal) 802** has observed that where recovery is supported by the official witnesses only, that per se is no ground to discard their testimonies and that the only rule of caution is that their statements should be examined with extra care in order to find out whether they inspire confidence and are worthy of reliance. In this case after carefully perusing the depositions of these witnesses, I do not find any reason to doubt the same, rather they deserve to be accepted and relied upon.

14. PW1 Isham Singh, DSP, who on 20.9.2005 was posted as Inspector/SHO at Police Station Nissing and before whom SI Rambhaj had produced six bags of poppy husk sealed with the seal having inscription 'RB' and 'VKB' besides accused Sukha Singh, Dharam Pal, Major Singh and Malkiat Singh and truck bearing registration No.HR56-1889, deposed in that regard stating that after verification of facts, he had affixed his own seal having impressions 'ISR' on sample parcels and bags directing the IO to deposit the case property with MHC and that the IO had prepared report under Section 57 of the Act, which being Ex.P1.

15. The link evidence in this case was provided by PW3 Constable Balwant Singh, who in his affidavit Ex.P2 deposed that on 28.9.2005, he had taken six samples of poppy husk sealed with the seals of 'HK', 'VKB', 'ISR' along with the sample seal impression vide RC No.469 dated 28.9.2005, which he had deposited at FSL, Haryana, Madhuban in an intact condition. Whereas PW5 HC Hari Kishan, who on 20.9.2005 was posted as MHC at Police Station, Nissing tendered his affidavit Ex.P5 stating that on 20.9.2005, SI Rambhaj had deposited six gunny bags of poppy husk along with 12 sample parcels sealed with the seals having impressions 'RB', 'VKB' and 'ISR' along with the seal impressions and truck No.HR56-1889 and on 21.9.2005, SI Rambhaj had taken the case property from him for producing the same before the Illaqa Magistrate and after doing that, the case property was redeposited by SI Rambhaj with him in the MALKHANA and on 28.9.2005, he had handed over six sample parcels duly sealed along with seal impression vide RC No.469 dated 28.9.2007 to Constable Balwant Singh for depositing the same with the FSL, who accordingly did so. He stated

that during the period the case property remained with him, no tampering therewith had taken place.

The report from FSL, Haryana, Madhuban Ex.PX goes to show that six sealed parcels relating to this case sent vide RC No.469 dated 28.9.2005 through Constable Balwant Singh had been received there on 28.9.2005. The seals were intact and tallied with the specimen seal as per forwarding authority letter and on analysis the samples were found to be of poppy straw (choora post) of *Papaver somniferum* L.

16. Thus, the conscious possession of contraband by the four accused stood established.

17. The remaining evidence adduced by the prosecution is of corroborative in nature.

PW2 Inspector Gurdwaya Ram had filed challan in the Court after completion of investigation. PW6 HC Sukhpal Singh, a witness of disclosure statement Ex.P6 made by accused Major Singh and PW7 ASI Jagdish, a witness of disclosure statement made by accused Dharam Pal before SI Rambhaj on 21.9.2005, testified in that regard, whereas PW8 Constable Jaspal Singh, who had taken the special reports to Illaqa Magistrate, SSP and DSP Assandh having been deputed for that purpose testified in that regard. PW9 HC Randhir Singh deposed about Nishan Singh accused suffering disclosure statement on 29.9.2005 and then in police custody identifying the place where the contraband was exchanged from one truck to the other deposed in that respect. PW11 HC Joginder Singh, while proving chit Ex.P13 regarding ownership of truck No.HR56-1889 in the name of G.M., Haryana Roadways, Kaithal stated that later on it was transferred in the name of

Rakesh Kumar, resident of Jind. PW12 SI Rambhaj, the Investigating Officer of this case and an important witness while recounted the events, which took place in his presence including recovery of contraband from the accused testified about the investigation conducted by him proving various documents.

18. The plea of false implication raised by the accused does not come out to be plausible. Why the police officials would chose to victimize the accused out of large population of the State has not been explained satisfactorily.

19. There is nothing on record to show that the accused or any of their relatives or friends had submitted any written representations to the higher police officer or other wings of police station complaining against their alleged false implication in this case. If the accused had been roped in wrongly, they would not have kept quiet with damoclean sword of conviction hanging over their heads. Their silence and inaction goes to show that their plea of false implication lacks merits. It has to be taken note of that involving of innocent persons in a false criminal case is a very grave offence and a police official indulging in such type of offence not only risks his service career but becomes liable for prosecution also and normally the police officials do not indulge in such type of acts unless a very strong motive for false implication is there, which in this case does not come out to be there.

20. As far as the witness examined by the accused in his defence i.e. DW1 Harvinder Singh, Draughtsman, who deposed that on 2.6.2007, he had gone to Dera of Sukha Singh situated in the area of vilage Gonder preparing site plan Ex.D1 in which he had shown the

passage in question with letters A to B stating that it is not feasible to move a truck over there since on both sides of the passage, there is low lying agricultural land. This witness having been engaged by the accused, who are his pay masters had obviously a soft corner for them and he could very well be expected to prepare a wrong document and say incorrect things in order to help the accused in coming out of a case of very grave and serious nature involving recovery of about two quintals of poppy husk.

21. Learned counsel for the appellants has challenged the impugned judgment on various grounds. The first ground of attack was with regard to delay of 8 days in sending the sample to FSL.

22. This objection is without any merit. The Apex Court in **Hardip Singh Versus State of Punjab, 2008(4) RCR(Criminal)97** while dealing with a case relating to recovery of 7 kgs. of opium when samples were sent to chemical examiners after 40 days of recovery, however, there was no evidence that samples were tampered with or any prejudice was caused to the accused, the delay was not held to be fatal to the case. The aspect of delay in sending the sample to the office of Chemical Examiner was discussed in case **Sucha Singh Versus State of Punjab 2015(4) RCR (Criminal)25** holding that when the samples were not sent to the office of Chemical Examiner within 72 hours, the prosecution and conviction cannot be vitiated on that ground since there was no specific provision in the Act in that regard and the instructions/standing orders in that respect were only the guidelines to regulate and control their internal working of Narcotic Control Bureau.

23. No prejudice is shown to have been caused to the accused

on account of some delay in sending the sample parcels to FSL, Haryana, Madhuban.

24. The next contention of learned counsel for the appellants was that notice under Section 50 of the Act is defective being a joint notice.

25. This objection does not carry any weightage. The Apex Court in judgment **State of Himachal Pradesh Versus Pawan Kumar 2005(2) RCR(Cri.) 621** has observed that Section 50 of the Act applies to personal search of the accused and not with regard to the search of bag in his possession. Here in this case the recovery had been effected from the truck and not as a result of personal search of accused. Even otherwise from the evidence adduced by the prosecution, necessary ingredients of Section 50 of the Act are fulfilled. It may be mentioned here that it is nowhere provided that the accused are to be apprised of their right of getting search effected in presence of a gazetted officer or a Magistrate vide a written notice and their written reply in response is to be obtained. Though as a matter of practice, the police officers reduce the offer given and response of the accused thereto in writing to keep proper record.

26. Learned counsel for the appellants further argued that no independent witness was joined with the police party though the place of recovery is thickly populated area.

27. I find this contention of learned counsel for the appellants without any merit. No provision of law makes it mandatory to join an independent witness during search and seizure. A Division Bench of this Court in case **Sucha Singh Versus State of Punjab**(supra) when an

independent witness had been joined during the search and recovery of contraband; he had appeared as a witness for the defence stating that his signatures were procured on blank papers when he had visited the police station in drunken condition, had observed that such contention was not accepted holding that it cannot be believed that numerous signatures on various papers having different written material could be signed by a witness on blank papers. The testimony of that witness was held to be unreliable and was discarded. In that very judgment, credibility of official/police witnesses was considered and it was observed that when there is no allegation of any enmity against the police officials to falsely implicate the appellants and there was no reason for them to depose against the appellants, the trial Court had rightly concluded that non-examination of independent witness of search and recovery being won over by the accused does not raise any doubt in the prosecution case. Even otherwise, the depositions of official witnesses are at par with that of independent witness. Furthermore, independent corroboration is a rule of prudence and not requirement of law. It is nowhere provided in any statute that independent corroboration is a must and in absence thereof, the case of the prosecution is to be rejected outrightly.

28. As discussed above, the official witnesses did not have any score to settle with the accused and no animosity with them, therefore their statements are to be taken at par with the independent witnesses. A Division Bench of this Court in **Manohar Lal and another Versus State of Haryana, 2005(2) RCR(Criminal) 431** had observed that non joining of independent witnesses at the time of seizure in itself does not create a dent in the prosecution evidence unless something more is made visible.

The independent persons may not associate themselves for fear of earning the wrath of the accused while they will not gain anything after becoming witnesses. It was further observed that worldly people have become more self-centered and they watch their own interest in doing any public act and there are very few people who look for the social cause and are prepared to sacrifice themselves for the larger interest of the society.

29. One more argument advanced by learned counsel for the appellants was that the IO had handed over his seal after use to HC Surinder Pal, who gave it back to IO after two days, as such chances of tampering with the case property were there.

30. Again this argument lacks force. Since the case property had been sealed with the seal of IO having inscription 'RB' as well as of DSP having inscription 'VKB' and then at the police station with seal of Inspector/SHO Isham Singh having impression 'ISR' and as it has come in evidence adduced by the prosecution, the case property had remained in safe custody till the sample parcels reached FSL, Haryana, Madhuban in an intact condition, there could not be any possibility of tampering with the case property for the said reason.

31. Learned counsel for the appellants has further argued that there was non-compliance of Section 52-A of the Act casting a doubt about the truthfulness of the prosecution story.

32. However, I am not impressed by this contention. As already discussed in detail above, the case property had remained in safe custody and the sample parcels had reached the office of FSL, Haryana, Madhuban with seals intact. PW12 SI Rambhaj, the Investigating

Officer of this case had categorically stated that he had produced the case property and the truck before the Magistrate obtaining order Ex.P17 on 21.9.2005. Section 52-A of the Act basically deals with producing the case property before a Magistrate so as to get an authentication order from him and thereafter after keeping the samples of the contraband recovered, the bulk quantity can be disposed of to avoid hassels of their storage for a long time during the pendency of the trial and appeal. No prejudice to the accused is shown to have been caused in any manner. Therefore, this objection is also rejected.

33. Learned counsel appearing for the appellant Sukha Singh states that he is handicapped from right hand and could not have taken part in unloading of the bags containing poppy husk.

34. Again this argument fails to convince me. A perusal of the statement of accused Sukha Singh recorded under Section 313 Cr.P.C. goes to show that though he has made mention in that regard that he is an infirm person having his right forearm amputated but no medical evidence either oral or documentary had been adduced in that regard. Many a times persons having some defect in a particular limb can do work like a normal person. Therefore, the prosecution story cannot be disbelieved for such like reason.

35. Learned counsel for the appellants have pointed out certain variations in the statements of official witnesses of search, seizure and recovery with regard to time of various events and distance between various places. A few minor contradictions in their statements do not go to the root of matter since those are bound to occur due to difference in power of perception, observation and retention of events in various

persons and so also due to lapse of memory due to passage of time etc.

36. One more argument advanced by learned counsel for the appellants was that the truck is not owned by any of the accused, as such they are not connected with the recovery.

37. May it be so. The main thing to be seen is the possession of the contraband. Here all the appellants/accused were unloading the gunny bags containing poppy husk from the truck, as such in terms of Section 35 and 54 of the Act, they are to be taken in conscious possession of the contraband since they had failed to account for their presence at the spot and being engaged in unloading of the bags containing poppy husk. In **Krishan Kumar Versus State of Punjab, 2016(2) RCR(Criminal)707**, a Single Judge of this Court had dealt with such aspect observing that when the recovery effected was in the form of 35 bags containing 35 kilograms poppy husk in each bag from the possession of the present appellant and his co-accused, such a huge quantity of the contraband cannot be planted by the police from its own source, that too, just for the false implication. Under the circumstances, the Conviction and sentence of the accused was upheld.

38. Learned counsel for the appellants could not show any violation of any mandatory provision, which might caused any prejudice to the appellants/accused.

39. The prosecution has proved its charge against the appellants/accused conclusively and affirmatively. The appellants/accused could not render any reasonable or plausible explanation for their alleged false implication nor could they account for possession of the contraband without any licence or permit thereby

showing that they were in conscious possession of such contraband.

40. As regards the sentence part, though the trial Court has noticed the argument advanced by the State counsel that spreading of drugs in this part of the country is becoming day by day a terrible menace, which has completely destroyed the very fibre of our society, calling for awarding severe punishment for illegal possession and transportation of drugs meant for personal consumption and eventual trade and that the recovery involved is quite huge i.e. 198 kgs. of poppy husk, when the commercial quantity of poppy husk is 50 kgs., the trial Court has been quite lenient with the accused awarding punishment of 10 years of imprisonment each and fine of Rs.1,00,000/- each, when the imprisonment could have been awarded up to 20 years and fine could extend to Rs.2,00,000/-. The sentence awarded is minimum prescribed for the offence. Neither the sentence can be reduced legally nor the appellants/accused deserve any reduction in the sentence. Even otherwise, the appellants/accused for a pecuniary benefit opted to play with lives and health of people of the area by making them addict to taking drugs. The drug peddlers have successfully destroyed the social fabric of our society and led youth to the wrongful path. Such type of persons need to be dealt with firmly and sternly and no sympathy can be shown to them lest that proves to be counter productive and result in increase drug trafficking.

41. The impugned judgment of conviction and order of sentence passed by the trial Court are well reasoned one, based upon proper appraisal and appreciation of evidence and correct interpretation of law. There is no illegality or infirmity therein. The said judgment of

conviction and order of sentence are upheld whereas the appeals are found to be without any merit and the same are dismissed accordingly.

42. It is pertinent to mention here that the concession of suspension of sentence granted to the appellants was withdrawn vide separate orders dated 5.8.2022 passed in both the appeals. Chief Judicial Magistrate, Karnal is directed to issue arrest warrants to get them arrested so as to make them undergo the remaining sentence.

Necessary intimation be sent to the quarter concerned.

Since the main appeals stand dismissed, the miscellaneous application, if any, stands disposed of accordingly.

19.9.2022

Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No