

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

CRA-AS-39-2017

Date of decision:-27.4.2022

State of Haryana

...Appellant

Versus

Pala Ram alias Pali

...Respondent

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

Present: Mr.Brijesh Sharma, AAG, Haryana
for the appellant.

Mr.Gurpreet Jayia, Advocate for
Mr.Jagdish Manchanda, Advocate
for the respondent.

H.S. MADAAN, J.

The State of Haryana feeling aggrieved by judgment passed by Additional Sessions Judge, Kurukshetra dated 7.1.2015 vide which he had acquitted accused Pala Ram alias Pali, an accused in FIR No.143 dated 7.10.2013 under Section 15 of Narcotic Drugs & Psychotropic Substances Act, 1985, (hereinafter referred to as the Act), Police Station Ismailabad, had approached this Court by way of seeking leave to appeal, which was granted and appeal was admitted for regular hearing vide order dated 21.3.2017.

Briefly stated, the facts of the case as per the prosecution story are that on 7.10.2013, a police party headed by ASI Ashwani Kumar while being present in the area near turning of Thaska Maranja on Ambala Road within jurisdiction of Police Station Ismailabad apprehended accused Pala Ram alias Pali on suspicion that he was carrying illicit liquor and found him in possession of poppy husk weighing 4.00 kgs., which was there in the bag being carried by him. The accused was arrested in this case. Recovered contraband was seized after drawing two samples of 200 gms. each therefrom. Ruqa was sent to the police station, which formed basis for registration of the FIR. Investigation in the case was carried out and accused was sent up to face trial. The trial ended in acquittal of the accused vide judgment dated 7.1.2015.

Notice of the appeal has been given to the accused, who put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

A perusal of the impugned judgment goes to show that the trial Court came to the conclusion that the prosecution had been unable to prove its charge against the accused beyond a shadow of reasonable doubt mentioning various factors.

First being that the prosecution version that the accused was carrying liquor in the bag was improbable because if liquor bottles are kept in the bag, the bag would become very heavy and would get shape like a box, therefore, it could not be said that accused could be apprehended on the basis of suspicion that accused was having illicit

liquor. Second reason given was that accused was not made aware of his right to his search being conducted before a gazetted officer or Magistrate, which the Investigation was under obligation to do so in terms of Section 50 of the Act.

The third reason given was that no attempt was made to join independent witness.

Keeping in view the totality of such circumstances, benefit of doubt was given to the accused.

After hearing the rival contentions and going through the record, I find that 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. There is no illegality or infirmity therein warranting interference, so as to convict the accused for the charge framed against him. The same is upheld whereas appeal is found to be without any merit and the same is dismissed accordingly.

Necessary intimation be sent to the quarter concerned.

27.4.2022
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No