

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

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CRM-A-365-2021

Date of Decision: 07.09.2022

State of Haryana

... Applicant

VS.

Purshotam Kumar @ Poppy

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. Surender Singh, AAG Haryana

Sandeep Moudgil, J. (Oral)

This application for leave to appeal has been filed by applicant-State of Haryana against acquittal of the respondent, vide judgment and order dated 15.03.2021 passed by the learned Additional Sessions Judge, Fatehabad-cum-Judge, Special Court (under the NDPS Act) (for short, 'the trial court') whereby respondent/accused has been acquitted of the charges framed against him in case-FIR No.482 dated 20.08.2016 under Section 21(b)/61/85 of NDPS Act, 1985 registered at Police Station Ratia, District Fatehabad.

Learned counsel for the applicant/State submits that the impugned judgment passed by the trial court is erroneous since charges against the accused were duly proved. The trial court also overlooked the fact that minor discrepancies, unless proved to be fatal and also that no independent witness was joined by the investigating agency, do not dent the case of the prosecution.

I have heard learned counsel for the applicant-State and gone through the record and am of the considered view that there is no merit in the present application.

The learned trial court observed that the prosecution has filed to prove that accused/respondent was found in conscious possession of the contraband without any permit or licence on 20.08.2016 and that mandatory provisions of the Statute were not duly complied with, besides this, the prosecution version of the story is also not cogent, convincing and worthy of credence. The trial court rightly observed that there is material loopholes in the recording of ruqa by PW6 SI Tarsem Singh who got scribed the ruqa by HC Anil Kumar. The second IO SI Bhup Singh deposed in his cross-examination that he received message from Mohrar Constable at 6.45 pm, however, no explanation is forthcoming as to how PW5 SI Bhup Singh received message at 6.45 pm when the ruqa itself was sent at 7.00 pm by the first IO PW6 Tarsem Singh, which fact casts serious aspersions on the authenticity of the prosecution story. PW8 Ganga Ram Poonia also in his cross-examination, deposed that from the personal search of accused/respondent apart from contraband, one mobile and Rs.1000/- were recovered, however, PW6 SI Tarsem Singh, the first IO had deposed the other way round by stating that except the contraband, nothing was recovered. There is 16 days' delay in sending the samples for examination. That apart, no effort was made to join any independent or public witness at the time of search, which is against the well-settled proposition of law. The learned trial court rightly concluded that the material discrepancies coupled with the contradictory statements of the prosecution witnesses do not inspire confidence in the prosecution story and as such the respondent was rightly held to be entitled for acquittal by giving the benefit of doubt.

In view of the above, I do not find any illegality and infirmity in the judgment passed by the learned trial court.

Accordingly, the application for leave to appeal is hereby dismissed.

07.09.2022
V.Vishal

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

(Sandeep Moudgil)
Judge

Yes/No
Yes/No