

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Sr. No.106

Case No. : CRR No.2538 of 2022

Date of Decision : November 29, 2022

Sandeep Kumar		Petitioner
vs.		
State of Haryana through Drugs Control Officer, Kurukshetra		Respondent

CORAM : HON'BLE MR. JUSTICE GURBIR SINGH.

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Present : Mr. Randeep Singh, Advocate
for the petitioner.

Mr. Karan Sharma, DAG, Haryana.

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GURBIR SINGH, J. :

The present revision petition has been preferred against the order dated 05.09.2022 passed by learned Additional District Judge, Kurukshetra whereby charges have been framed against the petitioner and his co-accused Sunil Kumar under Sections 18(a)(i), 18(a)(vi), 18(b) read with Section 17(b), 18(c), 18-A, 22(I)(cca) punishable under Sections 27(d) 27(c), 27(b)(ii) and Section 28 of the Drugs and Cosmetic Act, 1940.

Briefly, it is the case of the petitioner that he is running a Printing Press under the name of M/s Parjapati Printing Press at Pipli, Kurukshetra and his co-accused Sunil Kumar is also running a sweet shop i.e. M/s Kansal Sweet Shop there and that is why he was familiar with him.

On 19.01.2015, Sunil Kumar came to the Printing Press of the

petitioner and placed one bag there saying that he would take it after about half an hour. When he left his premises, two policemen entered in the Press of the petitioner and started searching the premises. During the search, drugs were found in the above-said bag placed by Sunil Kumar in the premises of the petitioner. The said policemen informed about the recovery of drugs to the Drugs Control Officer, Kurukshetra, who came to the spot along with raiding party. In the meantime, Sunil Kumar also returned there to collect his bag which was containing allopathic drugs along with unlabeled drugs. The Drugs Control Officer recorded statement of the petitioner and co-accused Sunil Kumar, who stated in his statement that the said drugs were brought by him from Delhi and the petitioner had no concern with these drugs. The petitioner also got recorded his statement to the Drugs Control Officer to the effect that Sunil Kumar was known to him and the bag in question was placed by Sunil Kumar in his Printing Press for some time and he had no concern with the said drugs and labels. On 11.11.2017, the Drugs Control Officer, Kurukshetra, issued a show cause notice to the petitioner and co-accused Sunil Kumar under Sections 18(c) and 18(a) read with Section 17 and 17-B of the Drugs and Cosmetics Act, 1945. The petitioner submitted his reply dated 19.12.2017 to the said show cause notice stating therein that he had no concern with the drugs and labels allegedly recovered from his premises.

The Drugs Control Officer, Kurukshetra, after a lapse of period of about two years, moved a complaint dated 16.10.2019 before the Court of

learned Chief Judicial Magistrate, Kurukshetra against the petitioner and co-accused Sunil Kumar under the Drugs and Cosmetics Act, 1940 regarding the aforesaid incident. The said complaint was, however, sent to the Court of Sessions Judge, Kurukshetra for trial. Thereafter, learned Court of Additional Sessions Judge, Kurukshetra, without giving any thoughtful consideration to the facts and evidence available on record, charge-sheeted the petitioner, vide order dated 05.09.2022.

Learned counsel for the petitioner further argued that no offence is made out against the petitioner for the reason that the co-accused Sunil Kumar made his statement at the place of occurrence before the raiding party that the drugs and labels recovered from the Parjapati Printing Press were brought by him from Delhi and Sandeep Kumar (the present petitioner) had no concern with those drugs and labels. There is no evidence on the record to prove the charges framed against the petitioner. The petitioner has been falsely implicated in this case simply for the reason that alleged drugs were recovered from the premises of the Printing Press owned by the petitioner. However, the petitioner was not aware about the drugs in the bag, which was placed by his co-accused Sunil Kumar in good faith in the Printing Press of the petitioner as Sunil Kumar was known to the petitioner as he was running a sweet shop at Pipli, Kurukshetra.

Heard learned counsel for the parties and perused the material on record.

At the stage of framing of charge, the Court has to consider the

material only with a view to find out if there is ground for presuming that the accused has committed an offence and not for the purpose of arriving at the conclusion as it is not likely to lead to a conviction. It is so held in case of Niranjan Singh Karam Singh Punjabi & Ors. vs. Jitendra Bhimraj Bijja & Ors. reported as (1990) 4 SCC 76. In State of Maharashtra & Ors. vs. Som Nath Thapa & Ors. reported as 1996 (2) RCR (Criminal) 480, the Hon'ble Apex Court, referring to dictionary meaning, explained the word “presume” as :

“...if on the basis of materials on record, a court could come to the conclusion that commission of the offence is a probable consequence, a case for framing of charge exists. To put it differently, if the Court were to think that the accused might have committed the offence it can frame the charge, though for conviction the conclusion is required to be that the accused has committed the offence. It is apparent that at the stage of framing of charge, probative value of the materials on record cannot be gone into; the materials brought on record by the prosecution has to be accepted as true at that stage.”
(emphasis supplied)

In case of Dinesh Tiwari vs. State of Uttar Pradesh reported as (2014) 13 SCC 137, it is held that at the initial stage of framing charge, the Court is concerned not with proof but with a strong suspicion that the accused has committed the offence. The final test of guilt is not to be applied at that stage.

Coming to the case in hand, there is no dispute that a bag, containing different types of drugs, was recovered from the premises of M/s Parjapati Printing Press, owned by the petitioner. Although the petitioner has placed reliance on the statement of co-accused Sunil Kumar, which was recorded by the Drugs Control Officer, Kurukshetra, on the same day that the petitioner had no concern with these drugs and labels but it is a question of evidence whether the said drugs and labels were kept there without the knowledge of the petitioner and can be seen during trial of the case. In the case in hand, different types of unlabeled drugs along with printed labels were recovered from the premises owned by the petitioner. Mere statement of co-accused that these were kept by him is of no help to the petitioner, at this stage. The Court in Revision can examine correctness, legality or propriety of the order.

There is no illegality in the order dated 05.09.2022, passed by the learned Additional Sessions Judge, Kurukshetra, framing charge against the petitioner and therefore, finding no merit in the present revision petition, the same is hereby dismissed.

November 29, 2022

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**(GURBIR SINGH)
JUDGE**

<i>Whether speaking/reasoned ?</i>	<i>Yes/No.</i>
<i>Whether reportable ?</i>	<i>Yes/No.</i>