

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

353/2

**CRA-S-17-SB-2009 (O&M)  
Reserved on:02.12.2022  
Date of Decision: 07.02.2023**

Charan Singh

...Appellant

Versus

State of Punjab

... Respondent

**CORAM : HON'BLE MR. JUSTICE N.S.SHEKHAWAT**

Present : Mr. K.P.S. Virk, Advocate  
as Amicus Curiae for the appellant.

Mr. Vipin Pal Yadav, Addl. A.G. Punjab.

**N.S.SHEKHAWAT, J.**

The present appeal is directed against the judgment dated 21.11.2008 passed by the Special Judge (Addl. Sessions Judge), Patiala, whereby, the canter bearing registration No. RJ-02G-2311 was ordered to be confiscated.

Vide judgment and order dated 19.03.2004 passed by the Court of learned Judge, Special Court, Patiala, accused Balbir Singh son of Tehal Singh resident of village Khamera, Tehsil Guhla, District Kaithal was convicted for an offence punishable under Sections 15 (c) of the Narcotic Drugs and Psychotropic Act, 1985 (in short '**the NDPS Act**') and was sentenced to undergo rigorous imprisonment for a period of 10 years and to pay a fine of Rs. 1 lac alongwith default stipulation. Vide order dated 19.03.2004 itself, the learned Judge, Special Court, Patiala, ordered for initiation of separate proceedings under Section 60 of the NDPS Act with regard to confiscation of the vehicle, i.e. canter bearing registration No. RJ-02G-2311, which was used by the accused for carrying 11 bags of poppy husk.

After the proceedings were initiated, notice was issued to the owner of the vehicle as to why the vehicle carrying poppy husk be not confiscated to the State. The record shows that Charan Singh appellant/owner of the canter himself appeared on 25.05.2005 but he failed to produce the canter in spite of repeated adjournments sought by him. As per the record, the owner of the canter appeared himself as RW1, whereas produced one person Shri Ram as RW2 and both the witnesses stated that he had no knowledge of the narcotics recovered from the canter which was driven by Gurjinder Singh at the relevant time. Even, the said witness tried to explain that on 09.02.2001, there was a betrothal ceremony in the house of the owner and a marriage was scheduled on 11.02.2001 and the truck was taken away by driver Gurjinder Singh on a false pretext of transporting certain goods.

Learned counsel appearing on behalf of the appellant submitted that the confiscation was ordered by the learned trial Court without application of its judicial mind. In fact, the appellant had no knowledge with regard to the contraband, which was allegedly shown to be recovered from the aforesaid canter. Apart from that, no other submission was raised. The said submission has been opposed by the learned State counsel by submitting that huge quantity of poppy husk was being carried in the canter and the appellant/owner of the vehicle had failed to produce any evidence to show that he had no intention or knowledge regarding the contraband in the canter bearing registration No. RJ-02G-2311 owned by him.

I have heard learned counsel for the parties and perused the trial Court carefully. The canter was admittedly owned by appellant Charan Singh and he got it released on *superdari* on 22.03.2002. He tried to project a false case that his betrothal ceremony was fixed on 09.02.2001 and his marriage was to be performed on 11.02.2001. However, he failed to lead any evidence with regard to the said submission. In support of his case, he appeared himself and also examined RW2 Shri Ram to prove the said fact. However, apart from their oral testimonies, there was no other evidence on record to prove the said submissions. The record shows that no application/representation was moved by appellant to any higher police authority or any other authority in this regard. At no point of time, he stated to any police official that he had no knowledge with regard to the transportation of poppy husk in his truck. He did not lead any evidence to show that he had taken all precaution against the use of vehicle for the transportation of the contraband/poppy husk. Even, there was no permission or licence for transporting such huge quantity of poppy husk from one place to another. In fact, learned trial Court has recorded well reasoned findings and there is no ground for interference with the same.

In view of above, the impugned judgment dated 21.11.2008 passed by the Special Judge (Addl. Sessions Judge), Patiala, is upheld and is affirmed and the appeal is accordingly dismissed.

All pending applications, if any, are disposed off, accordingly.

The case property, if any, may be dealt with as per the rules after expiry of period of limitation for filing the appeal.

Records of the Court below be sent back.

In the end, I record my appreciation for Mr. K.P.S. Virk, learned Amicus Curiae, who had rendered able assistance to this Court.

07.02.2023  
amit rana

(N.S.SHEKHAWAT)  
JUDGE

Whether reasoned/speaking : Yes/No  
Whether reportable : Yes/No