

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-S-3380-SB-2018 (O&M)

Date of Decision: 09.02.2023

KULDEEP SINGH

..... Appellant(s)

Versus

STATE OF PUNJAB

..... Respondent(s)

**CORAM:- HON'BLE MRS. JUSTICE LISA GILL
HON'BLE MRS. JUSTICE RITU TAGORE**

Present: Mr. N.S. Gill, Advocate for
Mr. Munish Gupta, Advocate
for the appellant.

Mr. M.S. Tiwana, AAG, Punjab.

LISA GILL, J.

This appeal has been filed by the appellant challenging decision dated 29.09.2017, passed by the learned Special Court, Mansa. Vehicle (Scorpio) of the appellant has been ordered to be confiscated to the State on account of being used for transportation of contraband as per the impugned order.

Brief facts necessary for adjudication of the matter are that FIR No.63 dated 10.10.2013, under Sections 15/25/61/85 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act') was registered. Said FIR was registered nominating three accused namely Sohan @ Sony, Harwinder Singh @ Gurwinder Singh and Satnam Singh (declared juvenile). Above said three persons were found to be in possession of contraband being carried by them in a truck. They were apprehended on the spot on 10.10.2013. During investigation, on the basis of a disclosure

statement of co-accused, present appellant - Kuldeep Singh was nominated as an accused. It was disclosed by the co-accused that present appellant used to supply poppy-husk. The appellant was arrested. However, during investigation, present appellant was found innocent. It was further found that vehicles belonging to the present appellant i.e. the vehicle in question in the present proceedings, bearing registration no.PB-10-BW-2530 (Scorpio) and another Verna car bearing registration No.PB-10-DH-2709, were not involved. The accused Sohan Singh @ Sony and Harwinder Singh @ Gurwinder Singh were convicted by the learned Special Court, Mansa vide judgment dated 07.09.2017 for being in conscious possession of 96 kilograms of poppy husk without any permit or license and they were sentenced to undergo imprisonment as detailed in order dated 07.09.2017. Thereafter proceedings were initiated for confiscation of the Scorpio vehicle belonging to the appellant and impugned order dated 29.09.2017 was passed.

Learned counsel for the appellant submits that impugned order dated 29.09.2017, passed by the learned Judge, Special Court, Mansa, confiscating the appellant's vehicle i.e. Scorpio Car, is clearly illegal and unjustified inasmuch as involvement of the said vehicle was not found to be established in the commission of offence as alleged in the FIR in question. Reference is made to judgment dated 07.09.2017, whereby accused in FIR No. 63 dated 10.10.2013, under Sections 15/25/61/85 of the NDPS Act have been convicted. It is further pointed out that appellant being suspected of involvement in FIR No. 63 dated 10.10.2013, was also arrested in the said FIR. However, as per report dated 09.04.2014 of the Special

Investigating Team (SIT), appellant's involvement was not found. It was declared that the appellant as well his two vehicles i.e., vehicle in question bearing registration no. PB-10-BW-2530 and another vehicle i.e., Verna car bearing registration no. PB-10- DH-2709, were not found involved. Appellant was found innocent and not proceeded against. It is submitted that vehicle was released on Superdari to the appellant and continues to be in his possession. It is prayed that present appeal be allowed and impugned order dated 29.09.2017, passed by the learned Special Court, Mansa, be set aside.

We have heard learned counsel for the parties.

Learned counsel for the State is unable to deny that during investigation, which was conducted in FIR No.63 dated 10.10.2013, under Sections 15/25/61/85 of the NDPS Act, present appellant was found to be innocent. Involvement of the vehicles owned by the appellant including the vehicle in question (Scorpio) was not found. It is stated in report dated 09.04.2014 as under:-

“During investigation, it is found that the said poppy husk does not belong to Kuldeep Singh Sarpanch. So during investigation, Kuldeep Singh Sarpanch son of Surjan Singh r/o Sidhwan Kalan and his two vehicles are found to be innocent in the case. If allow then in this regard through proper channel, SHO PS Joga be directed that Kuldeep Singh Sarpanch and his both vehicles bearing No. PB-10BW-2530 Scorpio (Black) and No. PB-10DH-2709 Verna (white) be declared innocent and he be discharged from the case and regarding recovery of 160 kgs of poppy husk detailed deeply investigation be conducted and accused be traced.”

Keeping in view the facts and circumstances of the case as above, we find that order dated 29.09.2017, passed by the learned Special Court, Mansa, is clearly unsustainable in the given factual matrix wherein it has been found that neither the appellant was involved in the matter and nor were his vehicles used in carrying out the offences in question.

Accordingly, appeal is allowed and order dated 29.09.2017, passed by the learned Special Court, Mansa, is set aside.

(LISA GILL)
JUDGE

(RITU TAGORE)
JUDGE

09.02.2023
Sunil

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