

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

240

CRA S-3532-SB-2015
Date of Decision: 11.09.2023

UT of Chandigarh

...Petitioner

Vs.

Darshan

...Respondents

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

Present : Mr. Anil Kumar Lamdharia, Addl. P.P., Chandigarh
for the appellant.

None for the respondent.

N.S.SHEKHAWAT, J. (Oral)

1. The Union Territory of Chandigarh has filed the present appeal against the impugned order of sentence dated 05.05.2015 passed by the Court of Mr. J.S.Sidhu, Judge, Special Court, Chandigarh, for its modification to the extent that the sentence imposed on the respondent may be ordered to be enhanced.

2. As per the case of the prosecution, on 10.10.2013, the police team headed by SI Tarsem Singh was present near the chowk of Sector 39/40/55/56 Chandigarh in connection with patrolling and crime detection and one naka was set up there. At about 05.30 p.m., a person was seen coming from the side of house of Sector 56, who was carrying a red colour bag in his right hand. On suspicion, he was

intercepted by the police and his bag was checked and the bag was found to be containing Ganja in it. On inquiry, the said person disclosed his name as Darshan son of Khilla Ram, resident of 6530, Sector 56, Chandigarh and could not produce any licence or permit for the possession of the Ganja. On weighing, Ganja turned out to be 1500 gms and the same was taken into possession by the police party by following the due process of law.

3. After holding the complete trial, the Special Court, convicted the respondent for commission of the offence under Section 20 of the NDPS Act and sentenced him to the period already undergone by him, i.e. w.e.f. 10.10.2023 to 18.11.2023 and a fine of Rs. 5,000/- was imposed on him.

4. Learned State counsel submitted that in the present case, 1.500 kgs Ganja was recovered from the respondent on 10.10.2013 and the said quantity was more than small quantity but was less than the commercial quantity. Thus, the sentence awarded to the respondent was highly inadequate and was liable to be enhanced by this Court.

5. I have heard learned counsel for the State and perused the record in this regard.

6. In the present case, the convict was aged about 45 years and was a married person. He was the sole bread earner of the family

and had to take care of his six children and wife. Consequently, taking liberal view in the matter, his sentence was reduced to the period already undergone by him.

7. In fact the concept of punishment in the field of criminal justice has evolved over time from a retributive approach that focused on punishment for the sake of punishment, to a more reformatory approach that emphasizes the rehabilitation and integration of the offenders in the society. Even, in India, the reformatory theory of punishment has gained the significant recognition and has been reflected in various provisions of the IPC as well as through landmark case laws. The reformatory theory of punishment is a philosophy of criminal justice that emphasizes the rehabilitation and reform of offenders. Even, the offenders cannot be seen as inherent evil or irredeemable but rather as individuals, who can be reformed and reintegrated into society with appropriate interventions. Even the reintegration of such offenders back into society as a protective citizens is also to be emphasized.

8. In the present case also, by applying the principles of reformatory theory of punishment in India, the respondent has been ordered to be sentenced to the period already undergone by him and this Court finds no grounds to interfere with the same.

9. Consequently, the present appeal is without any merit

and is ordered to be dismissed.

11.09.2023

(N.S.SHEKHAWAT)

amit rana

JUDGE

Whether reasoned/speaking :

Whether reportable :

Yes/No

Yes/No