

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

109

CRA-S-1141-SB-2004 (O&M)
Date of decision: 24.01.2024

Ramvir and another

...Appellants

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present : Mr. Arjun Lakhanpal, Advocate as
Amicus Curiae on behalf of the appellants.

Mr. Manipal Singh Atwal, DAG, Punjab.

AMAN CHAUDHARY, J.

1. Challenge in the present appeal is to the judgment/order dated 19.12.2003, passed by the learned Special Judge, Fatehgarh Sahib, whereby the appellants were convicted and sentenced to undergo rigorous imprisonment for 3 years and to pay a fine of Rs.2000/- each and in default of payment of fine, to further undergo RI for two months, for the offence punishable under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the Act').
2. Briefly put, the facts culminating in the filing of the present appeal are that when ASI Amarjit Singh along with other police officials were on patrolling duty in connection with the checking of miscreants and suspected vehicles, they apprehended the accused possessing a bag. After apprising them about their rights, search was conducted in the presence of a Gazetted Officer and recovery of 500 grams of opium was effected. The

requisite samples were drawn and sealed. Ruqa was sent on the basis of which an FIR was registered.

3. After completion of investigation, final report under Section 173 Cr.P.C. was presented in the Court against the accused. On finding a prima facie case, charges were framed against them, to which they pleaded not guilty and claimed trial.

4. The prosecution, in order to prove its case, examined as many as 6 witnesses. Thereafter, the statements of the accused were recorded under Section 313 Cr.P.C., whereby incriminating evidence was put to them, which they denied. They pleaded innocence and false implication.

5. The trial Court, after appreciating the evidence, came to the conclusion that prosecution has proved its case beyond any reasonable doubt, and accordingly convicted and sentenced the appellants as mentioned in para No.1 above.

6. Aggrieved appellants are before this Court.

7. Learned counsel for the appellants at the outset, gives up the challenge to their conviction and prays for reducing the sentence awarded to appellant No.1-Ramvir to a period of 2 years, 8 months, 16 days and appellant No.2-Ramesh to 3 years, 1 month, 29 days, it being period already undergone, on the ground that they are not involved in any other case under this Act; belong to poor strata of society; sole bread winner of their respective families; recovery was non-commercial; never misused the concession of bail and have been facing the agony of protracted trial for the last 24 years.

8. On the other hand, learned State counsel submits that the trial Court after appreciating the evidence led by the prosecution, has rightly convicted and sentenced the appellants, therefore, prays for the dismissal of

the present appeal. He, however, affirms the non-involvement of the appellants in any other criminal case and the period undergone by them.

9. Heard the learned counsel on either side and perused the record with their able assistance.

10. Evidently, PW-1 ASI Amarjit Singh had deposed that the accused-appellants were apprehended and found to be in conscious possession of the alleged contraband, which fact was corroborated by PW2-HC Raghbir Singh. The link evidence is complete. Thus, there is no scope for interference in the findings recorded therewith and the conclusion arrived at by the trial Court. As such, their convictions are upheld.

11. Insofar as the prayer for reducing the sentence to the period already undergone is concerned, it would be worthwhile to make a reference to the judgment in **S.K. Sakkar @ Mannan vs. State of West Bengal**, (2021) 4 SCC 483, wherein the accused was convicted under Section 20 of the Act and Hon'ble the Supreme Court reduced the sentence of five years to 2 years, 4 months and 16 days, by considering that the occurrence took place in 1997 and he was not a habitual offender, rather a first-time convict.

12. Furthermore, in **Naresh Kumar vs. State of Haryana** in CRA-S-796-SB-2005, decided on 24.02.2023, the sentence of the appellant i.e. 3 years and 6 months, convicted under Section 15 of the Act, was modified to the period undergone i.e. 8 months and 25 days already, by holding that no useful purpose will be served by sending him to jail after 22 years from the date of incident, in view of the fact that he was only about 28 years old at that time.

13. This Court, considering the judgments referred to above and the mitigating circumstances as pointed out by learned counsel for the appellants,

finds that the ends of justice would be adequately served if the sentence of appellants is reduced to the period already undergone by them, while keeping the fine intact.

14. The order of sentence dated 19.12.2003 is modified to the aforesaid extent and as such, the present appeal stands partly allowed.

(AMAN CHAUDHARY)
JUDGE

24.01.2024
ashok/ankur

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No