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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRA-S-5051-SB-2015 (O&M)
DECIDED ON: 11.07.2024

RANJODH SINGH @ DHAMI

.....APPELLANT

VERSUS

STATE OF PUNJAB

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Naveen Batra, Advocate
for the appellant.

Mr. Jaspal Singh Guru, AAG, Punjab.

SANDEEP MOUDGIL, J (ORAL)

This appeal has been filed for setting aside the judgment dated 06.08.2015 passed by Special Court, Hoshiarpur convicting and sentencing the applicant to undergo RI for a period of 14 days and to pay a fine of Rs. 1000/- and in default of payment of fine, to further undergo RI for 7 days under Sections 15 of the The Narcotic Drugs and Psychotropic Substances Act, 1985 (for short 'the NDPS Act')

2. The facts narrated as per the prosecution unfolds as that on 21.04.2014, ASI Kamaljit Singh and other police officials were patrolling in private vehicles when they spotted two suspicious individuals, Ranjodh Singh and Sarabilt Singh on a motorcycle. The police party tried to stop them, but they attempted to flee. The police apprehended them and recovered poppy husk from their possession. The accused consented to a



search, and the police recovered 500g of poppy husk from Ranjodh Singh and additional poppy husk of 500 grams was recovered from Sarabilt Singh. The police prepared sample parcels, sealed them, and sent them to the CFSL for analysis. The accused were arrested, and a case was registered against them. The police completed the investigation, and the chemical examiner's report confirmed the presence of poppy husk. The challan against the accused was then presented in court.

3. Learned counsel for the appellant contends that the judgment passed by the Additional Sessions Judge suffers from illegality, perversity and the same is not sustainable in the eyes of law as there is non-compliance of provisions of Sections 42 and 50 of the NDPS Act. He further submits that no independent witness was joined by the prosecution despite the alleged place of recovery is a thorough fare and thus, there is every probability of persons being present there but none of them was joined as witness.

4. It is asserted on behalf of counsel for the appellant that the Trial Court has ignored the statements of Prosecution witnesses which have great discrepancies and therefore, doubt the story set up by the prosecution. The Trial Court also failed to consider another important aspect that no corroborative evidence was led by the prosecution to establish the conclusive and conscious possession of recovered contraband.

5. Reliance has been placed upon a judgment rendered in the case titled as '*Nahar Singh vs. State of Punjab, 2010, 2 (RCR) CrL. 41*' by counsel for the appellant wherein recovery of 35 kg. of Poppy Husk was effected and the chemical examiner report proved the existence of Poppy Husk and the accused was convicted by the Trial Court, however, was



acquitted by the appellate Court on the ground that though independent witness was joined but not examined and considering the another fact that the evidence of the official witnesses are unreliable and untrustworthy on account of its non-corroboration.

6. Conversely, piercing into the arguments of the learned counsel for the appellant, learned State counsel submitted that the appellant had rightly been convicted and sentenced by the trial Court; that the appellant had been apprehended at the spot and that the appellant had failed to prove his previous enmity with the police officials to impart a motive on their part for his false implication.

7. Heard.

8. Having gone through the entire evidence on record and the findings recorded by the courts below, we are of the opinion that in the present case the prosecution has been successful in proving the case against the accused by examining the witnesses PW-1, PW-2, PW-3 wherein PW-1 ASI Kamaljit Singh has deposed that the accused persons were made aware of their right to get their search conducted by the Gazetted officer but the accused deposed faith in them and thereafter, prepared consent memo and search was conducted subsequently on which 500 grams of Poppy Husk was effected.

9. As far as the submissions made by counsel for the appellant is concerned that no independent witness was joined by the prosecution and all the witnesses examined were the official witnesses, it cannot be fatal to the case of the prosecution. It is settled law that the testimony of the official witnesses cannot be rejected on the ground of non-corroboration by independent witness. As observed and held by this Court in catena of



decisions, examination of independent witnesses is not an indispensable requirement and such non-examination is not necessarily fatal to the prosecution case.

10. In the recent decision in the case of '[Surinder Kumar v. State of Punjab, \(2020\) 2 SCC 563](#)', while considering somewhat similar submission of nonexamination of independent witnesses, while dealing with the offence under the NDPS Act, in paragraphs 15 and 16, the Court observed and held as under:

“15. The judgment in Jarnail Singh v. State of Punjab (2011) 3 SCC 521, relied on by the counsel for the respondent State also supports the case of the prosecution. In the aforesaid judgment, this Court has held thamerely because prosecution did not examine any independent witness, would not necessarily lead to conclusion that the accused was falsely implicated. The evidence of official witnesses cannot be distrusted and disbelieved, merely on account of their official status.

16. In [State \(NCT of Delhi\) v. Sunil, \(2011\) 1 SCC 652](#), it was held as under: (SCC p. 655)

“It is an archaic notion that actions of the police officer should be approached with initial distrust. It is time now to start placing at least initial trust on the actions and the documents made by the police. At any rate, the court cannot start with the presumption that the police records are untrustworthy. As a proposition of law, the presumption should be the other way round. That official acts of the police have been regularly performed is a wise principle of presumption and recognized even by the legislature.”

11. This Court while distinguishing the judgment passed in **Nahar Singh**' case (supra) on which counsel for the appellant has placed reliance, would opine that it was a case on different footing as in that case



independent witnesses were joined although not examined but in the case in hand perusal of the file depict that the police officials made an offer to join the witnesses but none of them came forward to join, moreover, the recovery in present case was made on a suspicion while in that one the recovery was made after they got the secret information, therefore, the judgment on which counsel for the appellant is relying upon cannot come handy to him.

12. Applying the law laid down by this Court on the evidence of police officials/police witnesses to the facts of the case in hand, referred to hereinabove, this Court is of the opinion that the police witnesses are found to be reliable and trustworthy and no error has been committed by the Special Court, Hoshiarpur in convicting the accused relying upon the deposition of the police officials.

13. In view of the above discussion, the present appeal stands dismissed being devoid of any merits.

14. Since the main case has been dismissed, the pending application(s), if any, stands disposed of.

(SANDEEP MOUDGIL)
JUDGE

11.07.2024
anuradha

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