



IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

CRM-A-430-MA-2014
Date of Decision: 01.08.2024

STATE OF HARYANAAPPELLANT

VERSUS

RAMAN SETIA & ORSRESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANDEEP MOUDGIL

Present: Mr. Chetan Sharma, DAG, Haryana
for the applicant/appellant

Mr. Gaurav Jain, Advocate
for the respondents.

SANDEEP MOUDGIL, J

1. The application under [Section 378\(3\)](#) CrPC has been filed by the applicant seeking leave to appeal against the judgment dated 29.08.2013 passed by CJM, Hisar (in short, 'trial court') vide which respondent has been acquitted under Drugs and Cosmetics Act 1940, (in short, 'Act'), on the ground that the appellant has miserably failed to bring home the guilt of the respondent-accused.

2. Briefly put forth, the facts of the case are that on 15.02.2006, complainant Raman Kumar, Drugs Control Officer along with Senior Drugs Inspector, Hisar visited the shop premises of accused no.2 for routine inspection wherein accused no.1 namely Raman Setia was found present. On

inspection, the accused-respondent was found stocking two types of Central Govt supply 'Not for Sales CGS Supply' (i.e 2 packs Asthalin Inhaler and two packs of Aerocort Inhaler), one type of Physician sample 'Not for Sale' and 23 types of date expired drugs from racks and refrigerator duly displayed for same and distribution. The complainant issued a notice bearing no. D1/1/06/190 dated 22.02.2006 under section 18C r/w Rules 65(17), 65(18), section 18A of the Act to the accused-respondent but to no avail which compelled the complainant to report the matter to State Drugs Controller, Haryana wherein permission was granted vide letter dated 20.08.2007 to initiate proceedings against the accused-respondent which was dismissed by the trial court. Hence, the present appeal.

3. Learned state counsel contends that the trial court failed to appreciate the fact that the accused-respondent could not disclose the name, address, and other particulars of the person from whom he had acquired the seized drugs which clearly shows that accused-respondent is carrying illegal trade by facilitating selling of drugs.

4. He further contends that the trial court has failed to appreciate the fact that Rule 65(17)&(18) and various charged sections lays down that mere stock of seized drugs is an offence which the trial court has failed to prove as to why these sections are not applicable to present circumstances of the case.

5. Having heard learned counsel for the state and going through the case file, this Court is of the considered opinion that there is no illegality or infirmity in the judgment passed by the trial court.

6. It is evident from the record in hand, that this court finds no reason to interfere with the reasoning passed by the trial court .

7. In the instant case, the witness namely Anil Kumar was joined as independent witness which later on was not examined by the complainant and rather he appeared as defence witness stating that no drugs were recovered in his presence from M/s City Jansewarth Medicos which creates doubt on the complainant version of the story.

8. Moreover, from the perusal of the file, it is crystal clear that PW-1 Raman Sheoran, Drug Control Officer did not remember the time when he reached the shop added with the fact that he failed to disclose the details as to how much seal was affixed on the box. Therefore, the appellant has failed to prove its case beyond reasonable doubt and in these circumstances, the accused-respondent is entitled to the benefit of doubt.

9. In the light of the above, this Court is of the considered view that no fault can be found with the judgment passed by the trial court dated 29.08.2013 and as such, having no merit, the appeal stands dismissed.

01.08.2024

Poonam Negi

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No

(SANDEEP MOUDGIL)
JUDGE