



IN THE PUNJAB AND HARYANA HIGH COURT AT
CHANDIGARH

315-1 CRA-S-61-SB-2008

NASIB SINGH ... Appellant

VERSUS

STATE OF PUNJAB ... Respondent

A N D

315-2 CRA-S-558-SB-2008
Reserved on: 04.12.2025
Pronounced on: 19.12.2025
Uploaded on: 22.12.2025

RAI SINGH ... Appellant

VERSUS

STATE OF PUNJAB ... Respondent

CORAM: HON'BLE MR. JUSTICE H.S. GREWAL.

Present: Mr. R.K. Singla, Advocate
(Amicus Curiae) for the appellants.

Mr. P.S. Pandher, AAG, Punjab.

H.S. GREWAL, J. (ORAL)

Both the abovementioned appeals are being disposed of by this common order, since the said appeals arise out of the same judgment dated 17.12.2007 passed by the learned Judge, Special Court, Mansa.

2. By way of filing present appeals, the appellants have challenged the judgment dated 17.12.2007 passed by the Judge, Special Court, Mansa, whereby the appellants have been convicted under Section 15 of the NDPS Act, 1985 and

sentenced to undergo rigorous imprisonment for a period of 10 years each and to pay fine of Rs.1,00,000/- each and in default of payment of fine, to further undergo rigorous imprisonment for a period of one year.

3. Initially, four accused persons were named in the FIR in question including the appellants herein, however, two of them namely Jai Vir son of Mani Ram and Dilsukh son of Surja Ram escaped from the spot and could not be arrested thereafter. Hence, they were declared proclaimed offenders and as such, they did not face the trial.

4. The present appeals have been filed by appellants namely Nasib Singh and Rai Singh. As per the case of the prosecution, on 18.03.2006, a police party headed by SI Jagdish Kumar, in connection with patrolling and nakabandi reached near main gate of village Jhanda Kalan. One Jit Singh, M.C. met the police party and he was associated with them. The police party held Nakabandi on bridge of a minor canal between villages Jhanda Kalan and Mann Khera. At about 5:15 A.M. one Maruti Zen Car bearing No. HR-29-M-0083 came from the side of village Mann Khera, which was signalled by SI Jagdish Kumar by torch light to stop, but the driver of the said car tried to escape and after covering a short distance, hit the car in the bridge of minor canal. Thereafter, two persons alighted from front side of the car and they managed to escape, however, the other two i.e. the appellants Rai Singh and Nasib Singh, who were sitting on three gunny bags lying on the back portion of the car after removing the seat, were apprehended. They disclosed the names of fleeing persons as Dil Sukh and Jai Vir. Later on, after conducting search of the car, the police team got recovered three gunny bags lying on the rear portion and one gunny bag lying in the boot of that car, weighing 30.200 Kgs each of poppy husk and Rs.100 currency notes from the personal

search of Rai Singh and Rs.150 currency notes from the personal search of Nasib Singh. The said car was registered in the name of one Savinder Singh. The appellants were arrested and investigation swung into motion. After completion of necessary formalities of investigation, report under Section 173 Cr.P.C. was prepared and presented before the Illaqa Magistrate against Nasib Singh and Rai Singh for commencement of trial, whereas, accused Dil Sukh and Jai Vir remained proclaimed offenders throughout.

5. In order to prove its case, the prosecution examined as many as five witnesses namely PW1- HC Balwinder Singh, PW2- SI Jagdish Kumar (the Investigating Officer), PW3- SI Jasvir Singh (SI/SHO), PW4- HC Piara Singh and PW5- Savinder Singh (the registered owner of the car in question). Thereafter, the evidence of prosecution was closed by learned Public Prosecutor.

6. Statements of the appellants under Section 313 of Cr.P.C. were recorded wherein the entire evidence led by the prosecution was put to the appellants. However, the appellants claimed to be innocent and pleaded that they were falsely implicated.

7. Thereafter, in their defence evidence, the appellants examined Jit Singh, MC, who was the independent witness to the alleged recovery made from the appellants.

8. After hearing counsel for the parties, the trial Court passed the impugned judgment convicting and sentencing the appellants. Hence, the present appeals.

9. Learned Amicus Curiae appearing on behalf of the appellants has argued that the prosecution has not proved its case beyond shadow of all

reasonable doubts and the necessary compliance of the provisions of law have not been complied with. Moreover, the deposition of defence witness has been ignored by the trial Court without any cogent reason. He further submits that PW1 HC Balwinder Singh was a formal witness to prove the link evidence regarding the samples.

10. PW2 SI Jagdish Kumar- the Investigating Officer of the case, had deposed as per the version of the FIR, however, in his cross-examination, he admitted that two persons had fled away from the scene and no gunshots were fired and even no superior police officer was informed about their escape. He also admitted that no efforts were made to apprehend the persons who had fled away from the spot. He further admitted that Jit Singh, who was the independent witness and was associated in the recovery proceedings, used to visit the police station very often. The investigating officer further deposed in his cross-examination that no inquiry was made regarding the ownership of the alleged car/vehicle. It was also admitted by him that the number of FIR was mentioned on some documents, while other documents did not mention the FIR number. He further admitted that the place of recovery was a thoroughfare.

11. Learned counsel for the appellants further submits that PW3 SI/SHO Jasvir Singh also stepped into the witness box and reiterated the contents of the FIR, however, in his cross-examination, he could not point out the memo on the judicial file regarding depositing of the case property with the Nazir. He was also ignorant about the ownership of the alleged car and admitted that Jit Singh, MC was known to him and he used to visit the police station very often.

12. PW4- HC Piara Singh, who was a member of the investigating team, also deposed on similar lines as above. He proved the laying of nakabandi. In his cross-examination, he also admitted that Jit Singh, MC was having a morning walk at the time of alleged occurrence and he was associated in the investigation. He also admitted that although two accused persons, who had fled away from the spot, were chased but no gunshots were fired by the police officials.

13. Further, PW5 – Savinder Singh, who is stated to be the registered owner of the car, which was used in the crime, stated that he had sold the said car to one Balram Singh son of Hanuman.

14. Thereafter, in defence evidence, DW1- Jit Singh, MC resident of Sardulgarh had appeared and deposed that the appellants were not known to him and nothing was recovered from their possession in his presence. He further deposed that the police had obtained his signatures on some blank papers on the pretext of recording his statement, however, he admitted that his statement was never recorded. He denied about any recovery having taken place in his presence and also denied his signatures of the memos Ex.PB, Ex.PD, Ex.PG, Ex.PH, Ex.PJ and Ex.PK.

15. Learned counsel for the appellants argues that there are various anomalies in the investigation and discrepancies in the evidence of prosecution witnesses, as has been pointed out above and the same go to the root of the case and demolish the case of prosecution. He further contends that the prosecution has miserably failed to bring home the guilt of the appellants and to prove its case beyond shadow of all reasonable doubts, and as a result of the same, the appellants deserve to be acquitted of the charges framed against them.

16. Learned State Counsel, on the other hand, opposes the contentions/arguments raised by the learned counsel for the appellants while submitting that the case of the prosecution is well-knitted, well proven and the appellants have rightly been convicted and sentenced by the trial Court. Hence, he prays for dismissal of the appeals in hand.

17. I have heard the learned counsel for the respective parties and have gone through the documents and other material available on record.

18. It is observed that according to the case of the prosecution, from the very beginning, one Zen Car was occupied by four individuals alongwith four bags each containing 30.200 Kgs of poppy husk. It is undeniable that 4 bags containing 30 Kgs each of poppy husk would be voluminous and they still could not fit in a small car like Zen and that too with four other individuals, even if the same are packed tightly. Still further, even if it is admitted for the sake of arguments that all the four persons were sitting tightly in the car by packing four gunny bags, then in that case, it could not have been possible for the two persons to come out of the car and flee away from the spot and that too in the presence of the armed police force. Secondly, the only independent witness of recovery namely Jit Singh, MC has not appeared as a witness of the prosecution, rather he appeared as a defence witness from appellants' side and outrightly denied the recovery of poppy husk from the appellants in his presence. Not only this, he further denied all the allegations put forth by the prosecution.

19. It has further been successfully proved on record that the mandatory provisions of Section 42 and 50 of the NDPS Act, 1985 have not been complied with as there is nothing on record to show that the contraband was ever produced before the Illaqa Magistrate for putting his/her seals and resealing the same after

drawing samples therefrom. Further, the CFSL forms were not filled at the spot. The samples were received at CFSL on 20.03.2006 after obtaining signatures of the SSP. The link has not been completed since there is no evidence to show that the contraband was homogeneously mixed and then samples were drawn therefrom as per law prescribed. The recovery memo, arrest memo as well as the statements of PW Jasvir Singh and HC Piara Singh do not bear the FIR number, for the reasons best known to the prosecution. There is nothing on record to show that the higher police officers were informed about the occurrence without any delay. The non-examination of the sole independent witness namely Jit Singh, MC by the prosecution and his appearance as a defence witness completely demolishes the case of prosecution. Moreover, the ownership of the car in question has also not been proved as the real owner or the affidavit holder qua purchase of the said car were never joined in investigation, what to talk of examining them in prosecution evidence. Furthermore, the mandatory provisions of Section 50 of the NDPS Act, 1985 were also not complied with as it is apparent from the perusal of record that no gazetted officer was called at the spot. In the case in hand, the story built up by the prosecution is highly improbable as four large gunny bags are stated to be kept in a Zen car by removing the back seat. Even if the back seat was removed, four large gunny bags containing 30.200 Kgs poppy husk would be highly voluminous and in such a case, it is not possible or probable that four persons could sit in the said vehicle which is a small sized hatchback Zen car. Moreover, two persons escaping from the spot inspite of the presence of armed police men again is not probable as admittedly, no gunshots were fired. Furthermore, the samples were not collected in accordance with law and the CFSL forms were also not filled at the spot, as already discussed above.

20. In light of the above, this Court is of the firm opinion that the prosecution could not prove its case beyond shadow of all reasonable doubts and has utterly failed to bring home the guilt of the appellants. Hence, while giving the benefit of doubt, the appellants are hereby acquitted of the charges framed against them and as such, the judgment of conviction and order on sentence dated 17.12.2007 passed by the Judge, Special Court, Mansa are hereby set aside.

21. The appeals stand allowed accordingly.

DECEMBER 19, 2025.

Rajender

**(H.S. GREWAL)
JUDGE**

Whether speaking/reasoned : Yes/No

Whether reportable : Yes/No