IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No. : 150 of 2015
Reserved on : 31.10.2026
Date of decision: 18.11.2026
Uploaded on : 18.11.2026

State of Himachal Pradesh ...Appellant.

Versus

Roop Singh & Anr. ...Respondents.

Coram
The Hon'ble Mr. Justice Vivek Singh Thakur, Judge.
The Hon'ble Mr. Justice Bhupesh Sharma, Judge.

Whether approved for reporting?[1] Yes.

For the Appellant : Mr. Raj Negi, Deputy Advocate General.

For the Respondents: Mr. Ajay Kochhar, Senior Advocate, with Ms. Swati Sharma, Advocate.

Bhupesh Sharma, Judge

The State of Himachal Pradesh is in appeal before this Court against the judgment of acquittal dated 17.11.2014, passed by the learned Special Judge-1, Shimla, District Shimla, H.P., in Sessions Trial No.3-S/7 of 2010, titled, 'State of Himachal Pradesh vs. Roop Singh & Anr.', whereby, the respondents (hereinafter to be referred to as the 'accused persons'), have been acquitted for the commission of

[1] *Whether the reporters of the local papers may be allowed to see the Judgment? Yes*

offences punishable under Sections 18 and 20 read with Section 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985, after giving them benefit of doubt.

2. The accused persons were sent to face trial for the commission of offences punishable under Sections 18 and 20 read with Section 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 by SHO, Police Station Dhalli, Tehsil and District Shimla, H.P. in case FIR No.149 of 2009 dated 04.09.2009, under Sections 18 and 20 read with Section 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985. The accused persons were prosecuted for the said offences and were subsequently acquitted by the learned trial Court vide impugned judgment dated 17.11.2014, passed in Sessions Trial No.3-S/7 of 2010, titled, 'State of Himachal Pradesh vs. Roop Singh & Anr.'.

3. The case of the prosecution as set out against the accused persons, in short, is as under:-

3(a). On 04.09.2009, at about 06:30 P.M., at place near Hasan Valley, within the jurisdiction of Police Station Dhalli, Tehsil and District Shimla, H.P., the accused persons

were found in joint and conscious possession of 4 kg 100 grams of 'Opium' and 500 grams of 'Charas' (Cannabis).

3(b). On 04.09.2009, at 02:30 P.M., Inspector Tenzin, Investigating Officer, CID, Crime Branch, Shimla, left for routine patrolling and crime detection duty towards Chharabra, Dhalli etc. vide Rapat No.3 dated 04.09.2009, from his office. He was accompanied by other Police officials namely Inspector Lal Singh, SI Rattan Singh and ASI Chet Ram. The Police party was travelling in official Maruti Gypsy. The Police party during the course of patrolling reached near Hasan Valley at 06:30 P.M., where, they spotted two persons coming on foot from forest road towards main road, out of which, one person was carrying a white coloured plastic Gunny Bag. On seeing the Police party, both the persons got perplexed and frightened and tried to flee. The Investigating Officer, Inspector Tenzin on seeing their act and conduct got suspicious, hence, they were apprehended and nabbed. The name and identity of both of them was ascertained. The person carrying the Gunny Bag was identified as accused Roop Singh (A-1) and the person accompanying him was identified as Om Prakash (A-2). The white coloured Gunny

Bag in possession of the accused persons was searched, leading to recovery of three plastic containers, out of which, two containers were of big size. The substance in both the big containers was checked and found to be 4 kg. 100 grams 'Opium' and the small container was found to be containing 500 grams of 'Charas' (Cannabis). The accused persons could not account for the contraband which was recovered from their possession.

3(c). Pursuant to the recovery of the contraband i.e. 4 kg. 100 grams of 'Opium' and 500 grams of 'Charas'(Cannabis), the Investigating Officer conducted codal seizure formalities. Two samples of 50 grams each were drawn from the containers containing 'Opium', and were sealed in separate cloth parcels by affixing four (4) seals of impression 'H'. Similarly, two samples of 50 grams each were drawn from the container containing 'Charas' (Cannabis), which were also sealed in two separate cloth parcels by affixing two(2) seals impression 'H'. The remaining contraband was put in the same 'Gunny Bag', which was also sealed by affixing 12 seals of impression 'H'. Sample seals were taken on a separate cloth parcel and the seal 'H' after its

use was handed over to SI Rattan Singh. The Investigating Officer, thereafter, filled relevant columns of NCB-1 Form in triplicate and the entire case property was taken into possession vide search, recovery and seizure memo in the presence of official witnesses i.e. SI Rattan Singh and ASI Chet Ram. The Investigating Officer, Inspector Tenzin after completing the seizure formalities scribed rukka and sent the same through ASI Subhash Chand to Police Station Dhalli, Shimla for registration of FIR against the accused persons.

3(d). On the basis of disclosure of facts in the rukka, case FIR No.149 of 2009 dated 04.09.2009, under Sections 18 and 20 read with Section 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 was registered against the accused persons at Police Station Dhalli, Shimla, District Shimla, H.P. The Investigating Officer prepared the spot map and recorded the statements of witnesses under Section 161 Cr.P.C. as per their version. The accused persons were arrested at 09:00 P.M. on 04.09.2009.

3(e). On 04.09.2009, at 10:00 P.M., Inspector Tenzin, Investigating Officer produced the case property i.e. four sealed sample parcels, sample seal impressions and sealed

'Gunny Bag' before Inspector Kundan Singh, SHO, Police Station Dhalli for resealing. The entire case property was resealed by affixing three (3) seals of impression 'A' on each parcel. The sample resealing impression 'A' was taken on separate piece of cloth. Relevant entries regarding resealing of the case property in columns No.9 to 11 in NCB-1 form in triplicate were made and thereafter, the case property was handed over to MHC, Police Station Dhalli in safe custody.

3(f). On 05.09.2009, the Investigating Officer, Inspector Tenzin prepared Special Report under Section 57 of the Narcotic Drugs and Psychotropic Substances Act, 1985 and delivered the same to Superintendent of Police, Crime Branch, State CID, Shimla. The requisite entry in this regard was made in the Special Reports' Register.

3(g). On 07.09.2009, the sealed samples containing contraband along with relevant documents were sent for chemical analysis to State Forensic Science Laboratory, Junga vide RC No.176 of 2009 dated 07.09.2009. The case property on being subjected to chemical examination at State Forensic Science Laboratory was opined to be 'Opium' and 'Charas' (Cannabis).

3(h). Pursuant to completion of investigation, the accused persons were found in joint and conscious possession of 4 Kg. 100 Grams of 'Opium' and 500 grams of 'Charas' (Cannabis), accordingly, they were found to have committed the offences punishable under Sections 18 and 20 read with Section 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985. Therefore, Final Report under Section 173(2) Cr.P.C. was prepared against them and the case was filed before Learned Special Judge, Shimla. The accused persons were prosecuted for the commission of offences punishable under Sections 18 and 20 read with Section 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 in Sessions Trial No.3-S/7 of 2010, titled as 'State of Himachal Pradesh v. Roop Singh & Anr.'.

3(i). The learned trial Court after considering the oral and documentary evidence led by the prosecution acquitted both the accused persons for the commission of offences punishable under Sections 18 and 20 read with Section 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 vide impugned judgment of acquittal dated 17.11.2014,

passed in Sessions Trial No.3-S/7 of 2010, titled as 'State of Himachal Pradesh vs. Roop Singh & Anr.'.

4. Feeling aggrieved and dissatisfied with the judgment of acquittal passed by learned trial Court vide impugned judgment dated 17.11.2014, in Sessions Trial No.3-S/7 of 2010, titled, 'State of Himachal Pradesh vs. Roop Singh & Anr.', the appellant-State filed the instant appeal before this Court on following various grounds:-

- That the impugned judgment passed by the learned trial Court is wrong on facts as well as on law, hence, the same is liable to be set aside.
- That the impugned judgment is based on hypothetical reasoning, surmises and conjectures, hence, liable to be set aside.
- That the learned trial Court has appreciated the evidence on record in a slip-shod and perfunctory manner and has acquitted the accused on the flimsy grounds.
- That the learned trial Court has not only failed to view the prosecution evidence in its proper perspective but at the same time has set unrealistic standards to evaluate the direct and cogent prosecution evidence. The reasoning of the learned trial Court is manifestly unreasonable and unsustainable as there was warrant at all for the trial Court to discard the well

reasoned and consistent testimony of the prosecution witnesses on material points.

- That the learned trial Court has discarded the testimony of prosecution witnesses for untenable reasons in the absence of any proof of enmity no reasons whatsoever have been assigned for discarding the version of official witnesses. The acquittal in this case is in disregard of material evidence on record and as such, the same is unreasonable, therefore, the impugned judgment is liable to be set aside.

- That the learned trial Court has erred and wrongly concluded that in the present case, two view are possible, i.e. one in favour of the prosecution and another in favour of the accused. The learned trial Court further wrongly observed that because the independent witnesses have not been associated by the police qua the recovery of the opium and Charas, preparation of papers Ext.PW1/A to Ext.PW1/C, Ext.P-1 to Ext.P-13 and Ext.DA to Ext.DE. On this ground, the learned trial Court had given the benefit to the accused persons despite the fact that the prosecution witnesses had supported the prosecution case, but their version were not relied on the analogy that they are police officials. It is submitted that the prosecution has proved the case beyond all reasonable doubts and thus there is no question of two views. It is submitted that the learned trial Court has erred gravely while dividing evidence in to

pieces and did not read evidence together to reach the rightful conclusion. It is submitted that the minor contradictions in the statements of the prosecution witnesses are bound to be there owing to the time taken for recording their statements in the Court. It is submitted that in the present case huge quantity of contraband was recovered from the accused persons and all the witnesses have proved that said contraband was recovered from the exclusive possession of the accused persons.

- It is submitted that the learned trial Court has misread and misinterpreted the facts regarding taking and depositing of the case property to FSL Junga by PW3, C. Prama Nand vide RC No.176 of 2009 dated 07.02.2009. PW5 Shiv Kumar has categorically supported the version of PW3 that the case property was deposited in FSL Junga vide RC NO.176 of 2009 dated 07.02.2009 and not vide RC No.76 of 2009. as ready by the learned trial Court. The copy of Malkhana Register and RC are Ext.PW5/A and Ext.PW5/B. Therefore, the impugned judgment is bad in the eyes of law and deserves to be set aside.

5. Therefore, on aforesaid grounds, it is prayed that the present appeal be allowed and the impugned judgment of acquittal be set aside.

6. We have heard Mr. Raj Negi, Deputy Advocate General for the appellant-State, Mr. Ajay Kochhar, learned

senior counsel with Ms. Swati Sharma, Advocate for the accused persons and have also carefully gone through the records as well as the findings recorded by the learned trial Court while passing the impugned judgment dated 17.11.2014.

7. Mr. Raj Negi, Deputy Advocate General, has strenuously argued that the findings rendered by the learned trial Court are unsustainable, since, oral and documentary evidence led by the prosecution was not well appreciated. The official witnesses of search, recovery and seizure, namely SI Rattan Singh (PW1), ASI Chet Ram (PW2) and Inspector Tenzin (PW10) Investigating Officer have fully supported the prosecution case proving the factum of recovery of 4 Kg. 100 Grams 'Opium' and 500 grams of 'Charas' (Cannabis) from the possession of the accused persons. The material documentary evidence led by the prosecution clearly established the complicity of the accused persons for being in possession of the contraband. The learned trial Court failed to appreciate the oral and documentary evidence in right perspective, leading miscarriage of justice. Therefore, the findings of acquittal recorded by the learned trial Court

are perverse and void in the eyes of law and liable to be set aside.

8. Per contra, Mr. Ajay Kochhar, learned senior counsel for the accused defended the judgment of the acquittal passed by the learned trial Court and submitted that the oral and documentary evidence led by the prosecution is not sufficient to secure conviction of the accused persons. Learned counsel for the accused persons submitted that the link evidence in the present case to connect the contraband with the State FSL Report (Ext.PX), the alleged proceedings, sealing of the case property and the samples is also not beyond the shadow of doubt. It has further been submitted that ASI Subhas Chand (PW9), who delivered the Rukka at Police Station Dhalli, never remained associated during the course of investigation since his name does not figure in the official record being present on the spot at the relevant time. Learned counsel for the accused persons in support of his contentions placed reliance on various judgments of Hon'ble Supreme Court i.e. **State of Rajasthan vs. Daulat Ram AIR 1980 (SC) 1214, Valsala vs. State of Kerala, 1993 Supp. 3 SCC 665, State of Gujarat vs.**

Ismail U Haji Patel, 2003 (12) SCC 291, State of Rajasthan vs. Gurmail Singh, 2005 (3) SCC 59, State of Rajasthan vs. Tara Singh, 2011 (11) SCC 559, State of Uttar Pradesh vs. Hansraj alias Hansu (2018) 18 SCC 355, Vijay Pandey vs. State of U.P. 2019 (SC) 3569, Ashok alias Dangra Jaiswal vs. State of Madhya Pradesh, (2011) 5 SCC 123 as well as the judgments passed by this Court in case titled **'Sansar Chand vs. State of H.P. Cr. Appeal No.93 of 2017' and 'Murari Lal vs. NCB, Cr. Appeal No.389 of 2022'**.

9. Perusal of the record evidently shows that the learned Trial Court, on considering and evaluating the material and evidence, found material discrepancies in the statements of the official witnesses i.e. SI Rattan Singh (PW1), ASI Chet Ram (PW2) and Inspector Tenzin, Investigating Officer (PW-10) and on the basis of the said material contradictions and discrepancies, proceeded by acquitting the accused persons for the commission of offences punishable under Sections 18 and 20 read with Section 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985.

10. Since, the present appeal has been filed against the judgment of acquittal, therefore, the scope of powers of the Appellate Court in the case of an appeal against acquittal needs to be considered before embarking upon the factual matrix.

11. The scope of the powers of the Appellate Court in case of an appeal against acquittal has been elaborately dealt with by the Hon'ble Apex Court in **Muralidhar alias Gidda & another vs. State of Karnatka reported in (2014) 5 SCC 730**. and **Rajesh Prasad vs. State of Bihar & another, (2022) 3 SCC 471**.

12. Similarly in **H.D. Sundara & others vs. State of Karnataka, (2023) 9 SCC 581**, the Hon'ble Supreme Court has observed that the appellate court cannot overturn acquittal only on the ground that after reappreciating evidence, it is of the view that the guilt of the accused was established beyond a reasonable doubt.

13. It is more than settled that the powers of Appellate Court while hearing the appeals against the acquittal are not unbridled. There is a clear caveat that in case the view arrived at by the trial Court is a possible one

borne from the material on record, the same cannot be viewed differently, even if, there is a possibility of any other view. Reference in this regard can be made to the judgment passed by Hon'ble Supreme Court in **Jafarudheen and others vs. State of Kerala (2022) 8 SCC 440**, wherein it has been held as under:

> ***"Scope of Appeal filed against the Acquittal:***
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> *25. While dealing with an appeal against acquittal by invoking Section 378 of the Cr.PC, the Appellate Court has to consider whether the Trial Court's view can be termed as a possible one, particularly when evidence on record has been analyzed. The reason is that an order of acquittal adds up to the presumption of innocence in favour of the accused. Thus, the Appellate Court has to be relatively slow in reversing the order of the Trial Court rendering acquittal. Therefore, the presumption in favour of the accused does not get weakened but only strengthened. Such a double presumption that enures in favour of the accused has to be disturbed only by thorough scrutiny on the accepted legal parameters."*

14. The present appeal has been filed against a judgment of acquittal. It was laid down by the Hon'ble Supreme Court in **Surendra Singh v. State of Uttarakhand, 2025 SCC OnLine SC 176: (2025) 5 SCC 433** that the Court can interfere with a judgment of acquittal if it is

patently perverse, is based on misreading/omission to consider the material evidence and reached at a conclusion which no reasonable person could have reached. It was observed at page 440:

> *"12. It could thus be seen that it is a settled legal position that the interference with the finding of acquittal recorded by the learned trial judge would be warranted by the High Court only if the judgment of acquittal suffers from patent perversity; that the same is based on a misreading/omission to consider material evidence on record; and that no two reasonable views are possible and only the view consistent with the guilt of the accused is possible from the evidence available on record.*"

15. Thus, the law on the issue can be summarized to the effect that in exceptional cases where there are compelling circumstances, and the judgment under appeal is found to be perverse, the Appellate Court can interfere with the order of acquittal. Further, if two views were possible on the basis of the evidence on record, the Appellant Court should not disturb the findings of acquittal recorded by the Trial Court, merely, because the Appellate Court could have arrived at a different conclusion than that of the Trial Court.

16. The burden of proof in a criminal trial never shifts and it is always the burden of the prosecution to prove its case beyond reasonable doubt on the basis of acceptable evidence. In fact, it is a settled principle of criminal jurisprudence that more serious the offence, the stricter the degree of proof required, since a higher degree of assurance is required to convict the accused.

17. The perusal of the record reveals that it is a case of chance recovery by the Police party headed by Inspector Tenzin (PW10) Investigating Officer during routing patrolling and crime detection duty on 04.09.2009 at about 06:30 P.M., at place near Hasan Valley, within the jurisdiction of Police Station Dhalli, Tehsil and District Shimla, H.P. The Police party apparently had no prior information regarding the movement of the accused persons along with the contraband. Therefore, considering the aforesaid evidence, the provisions of Section 42 of the Narcotic Drugs and Psychotropic Substances Act, 1985 are neither applicable nor attracted. Similarly, since the alleged recovery of contraband was effected from the 'Gunny Bag', in possession of the accused persons, therefore, the provisions of Section 50 of the

Narcotic Drugs and Psychotropic Substances Act, 1985 are also not applicable.

18. Now coming to the recovery of the alleged contraband from the possession of the accused persons.

19. It is the case of the prosecution that the contraband was recovered from the white coloured 'Gunny Bag', in possession of the accused Roop Singh (A-1). The contraband i.e. 4 kg. 100 grams 'Opium' was recovered from two big plastic containers and 500 grams 'Charas' (Cannabis) was recovered from the small plastic container. In this regard, search, recovery and seizure memo Ext.PW1/A can be referred. As per the prosecution case, recovery of contraband was effected in the presence of the official witnesses namely SI Rattan Singh (PW1) and ASI Chet Ram (PW2). Apparently, Investigating Officer, during the course of search, recovery and seizure proceedings did not associate any independent witnesses and the reason assigned for the same is that the accused persons were apprehended at a deserted place in a forest area with no locality in the nearby, therefore, the presence of independent witnesses could not be secured during the course of proceedings. Therefore, the

entire prosecution case hinges around the evidence of official witnesses, as referred herein above i.e. SI Rattan Singh examined as PW1 and ASI Chet Ram examined as PW2. Therefore, the statements of both these witnesses require close consideration and scrutiny in order to ascertain the recovery of the contraband from the possession of the accused persons.

20. PW-1 SI Rattan Singh, being member of the Police team has testified that on 04.09.2009, at 02:30 P.M., the accused persons were apprehended for being in possession of a 'Gunny Bag' of white colour, which contained three plastic containers i.e. two big containers containing 4 kg. 100 grams of 'Opium' and one small container containing 500 grams of 'Charas' (Cannabis). He further testified that pursuant to the recovery of the contraband, samples were drawn and the sealing of the case property and sampling were carried out and the entire contraband was taken into possession vide recovery and seizure memo Ext.PW1/A in his presence and in presence of ASI Chet Ram (PW2).

21. PW-2 ASI Chet Ram has also supported the version of SI Rattan Singh (PW1) on all the material points

and has further supported the contents and recitals of the recovery and seizure memo Ext.PW1/A.

22. The Investigating Officer, Inspector Tenzin (PW-10) has deposed that on 04.09.2009, at about 02:30 P.M., he along with Inspector Lal Singh, SI Rattan Singh (PW1) and ASI Chet Ram (PW2) left State CID Crime Branch Office in official Gypsy towards Chharabra for routine patrolling and crime detection duty and at about 06:30 P.M., when he was present near Hasan Valley, he apprehended the accused persons coming from forest road towards main road i.e. NH-22. They were in possession of one polythene bag of white colour with red strips, which was searched on suspicion leading to recovery of three plastic containers, out of which, two big containers were containing 4 kg. 100 grams of 'Opium' wrapped in polythene papers and third small container was containing 500 grams of 'Charas' (Cannabis) wrapped in polythene papers. Subsequently, the samples of 'Opium' and 'Charas' (Cannabis) were drawn, which were sealed in cloth parcel by affixing sample seals of impression 'H' and the entire case property was taken in to possession vide recovery memo Ext.PW1/A in presence of SI Rattan

Singh and ASI Chet Ram. The Investigating Officer has further testified the post recovery investigation proceedings conducted by him.

23. The careful perusal of the evidence of the official witnesses i.e. SI Rattan Singh (PW1), ASI Chet Ram (PW2) and Inspector Tenzin (PW10) reveal that there are material contradictions in their respective statements regarding the mode and manner, in which, the proceedings were carried out, which rendered the prosecution version vulnerable and unbelievable, thereby giving benefit to the accused persons.

24. As per the evidence of SI Rattan Singh (PW1) the accused Roop Singh (A-1) was carrying a 'Boru' (Plastic Gunny Bag) of white colour, having red strips, in his right hand, which contained plastic containers containing contraband. As per the statement of ASI Chet Ram (PW2) the accused Roop Singh (A-1) was carrying / holding a 'Gunny Bag' having red strips in his right hand and as per the statement of Inspector Tenzin (PW10), the accused Roop Singh (A-1) was carrying one polythene bag of white colour having red strips. On considering the aforesaid evidence, it is evident that there is no consistency in the statements of

these witnesses whether the accused Roop Singh (A-1) was carrying one 'Gunny Bag' or 'Polythene Bag', which allegedly contained plastic containers with the contraband.

25. It may be pertinent to refer to the recovery and seizure memo Ext.PW1/A, which describes that the accused Roop Singh (A-1) was carrying one plastic 'Boru' of white colour with red strips, Rukka Ext.PW6/A refers that the accused Roop Singh (A-1) was carrying a plastic 'Boru' of white colour. Therefore, considering the oral evidence and the documents referred, there is material contradiction as to the description of the 'Gunny Bag'/Plastic 'Boru'/Polythene Bag (Ext. P2).

26. As per the prosecution case, rukka Ext.PW6/A was scribed and prepared by Inspector Tenzin, Investigating Officer (PW-10) and was sent to SHO, Police Station Dhalli along with NCB-1 form in triplicate (Ext.PW6/D) through ASI Subhash Chand (PW-9) for registration of FIR against the accused persons under the relevant provisions of law. From the perusal of the statement of Inspector Tenzin (PW10), he had entrusted Rukka Ext.PW6/A and NCB-1 form in

triplicate Ext.PW6/D to ASI Subhash Chand (PW-9) for transmission to Police Station Dhalli.

27. As per the statement of Inspector Kundan Lal (PW-6), SHO, Police Station Dhalli, on 04.09.2009, at 08:15 P.M., ASI Subhash Chand, who was posted in CID, Shimla, handed over him Rukka Ext.PW6/A, on the basis of which, he got registered FIR Ext.PW6/B. At about 10:00 P.M., Inspector Tenzin came to the Police Station Dhalli and handed over to him four sealed sample parcels having four (4) seals of seal impression 'H' and 5th parcel which was having 12 seal impressions of seal 'H' along with sample of seal 'H'. He stated that he resealed all the abovesaid 5 parcels by affixing three seals of seal impression 'A' on each parcel. He also obtained three samples of seal impression 'A' on a piece of cloth. Inspector Tenzin also handed over to him NCB-1 form in triplicate along with the said case property. He thereafter filled columns No.9 to 11 of NCB-1 form in triplicate, which is Ext.PW6/D.

28. As per the evidence of Subhash Chand (PW-9), he handed over the Rukka Ext.PW6/A and NCB-1 form in triplicate to SHO, Police Station Dhalli for registration of FIR.

29. Having considered the aforesaid evidence, there is material contradiction regarding the fact as to when and who handed over NCB-1 form in triplicate Ext.PW6/D to Inspector Kundan Singh (PW-6). If the statement of Inspector Kundan Singh (PW-6) is to be believed then, the said document was handed over to him by Inspector Tenzin (PW-10) when he produced the case property and the samples of contraband for resealing. The aforesaid fact completely contradicts the statements of ASI Subhash Chand (PW-9) and Inspector Tenzin (PW-10) in this regard.

30. There are also material contradictions in the statements of prosecution witnesses as to the exact place where the accused persons were apprehended and searched as well as the time of completion of proceedings at the spot and whether the said proceedings were conducted in the natural light or in the torch lights.

31. After carefully considering and scrutinizing the oral and documentary evidence led by the prosecution, the case of the prosecution as set out against the accused persons is liable to be discarded for want of clear, cogent and convincing evidence. The material contradictions, as

discussed herein above in the prosecution case, are insufficient for securing conviction of the accused persons. The learned trial Court has elaborately dealt with all the material aspects of the prosecution case on the basis of material and evidence adduced before it and by discarding the same. This Court does not find any fault with the findings recorded by the learned trial Court, which are based on proper appreciation of oral and documentary evidence.

32. In view of the above, the present appeal fails and it is dismissed.

33. A copy of this judgment along with the record of the learned Trial Court be sent back forthwith.

34. The appeal is, accordingly, disposed of, so also the pending miscellaneous application(s), if any.

(Vivek Singh Thakur)
Judge

(Bhupesh Sharma)
Judge

18th November, 2026
(Sanjeev)