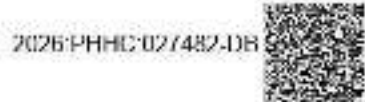


CRM-9103-2024 in/and
CRM-A-305-2024 (O&M)



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

CRM-9103-2024 in/and
CRM-A-305-2024 (O&M)

JUDGEMENT RESERVED ON	JUDGEMENT PRONOUNCED ON	OPERATIVE PART PRONOUNCED OR FULL	UPLOADED ON
03.02.2026	20.02.2026	FULL PRONOUNCED	20.02.2026

State of Punjab ...Applicant

Versus

Jean Cyrilli Koffi ...Respondent

CORAM: HON'BLE MR. JUSTICE ANOOP CHITKARA
HON'BLE MRS. JUSTICE SUKHVINDER KAUR

Present: Ms. Pooja Nayar Sharma, D.A.G., Punjab
for the appellant.

Mr. Kamal Chaudhary, Advocate
for the respondent.

ANOOP CHITKARA, J.

1. Challenging the judgment passed by Special Judge, Fatehgarh Sahib vide which one of the accused Bobby Verma was convicted, however, accused No. 2 Jean Cyrilli Koffi was acquitted, State had come up before this Court by filing an application for leave to appeal along with the application for condonation of delay.
2. Brief facts of the case are taken from the judgment dated February 09, 2023 as per which initially the convict Bobby Verma was apprehended and from his possession the police had recovered 70 grams of heroin. After Bobby Verma was interrogated, he made a disclosure statement that he had purchased the Heroin from a Nigerian national who resides in Delhi and also shared his WhatsApp number +2 349-078962559. The description of the seller was also given. The accused, Bobby Verma, also made a disclosure statement that he had concealed the Heroin in his residential house and after that he led the police where the police recovered 400 grams of more Heroin. On November 23, 2020, the police party took the accused to Delhi where they on identification of the co-accused detained the respondent No.2 Jean Cyrilli Koffi. Subsequently the police suspected him to carry some contraband and his personal search was conducted and then police recovered 250 grams of Heroin from his right pocket. He was also arrested and arraigned as an accused in the present FIR. Vide detailed judgment dated February 09, 2023 the trial court convicted Bobby Verma but acquitted Jean Cyrilli

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Koffi.

3. Challenging the judgment of acquittal, the State filed leave to appeal, however, since there was massive delay, an application for condonation of delay was also filed. Perusal of the application mentions that there is a delay of 268 days in filing the present leave to appeal. The reason for the delay which are mentioned are that the certified copy of the judgment was applied on December 09, 2023 and the same was prepared on December 14, 2023. After that, the District Attorney Fatehgarh Sahib after going through the impugned judgment sent the case to the Director Prosecution vide letter dated March 01, 2023. This itself shows that there was no delay because the judgment of conviction was February 09, 2023 and the Director Prosecution had sent the matter on March 01, 2023. After that, as per paragraph no. 5 of the application, the Department of Home Affairs agreed with the proposal made and sent the recommendations regarding their opinion but no date has been mentioned. In paragraph no.6, the file was marked to Law Officer on March 15, 2023 for seeking his opinion and then the opinion of Assistant Advocate General, Punjab was sought on May 08, 2023. In paragraph no. 7, the government had granted sanction to file the appeal vide order dated May 19, 2023. However, the leave to appeal was not filed and the same was filed only on February 22, 2024, thus there is no explanation that how the delay had occurred after the sanction was granted on May 19, 2023. It appears that the appeal has been filed simply because the sanction had been granted, but no reasons for delay have been explained. Thus, it is not a case where the delay should be condoned by this Court. But before considering the application for condonation of delay, this Court is examining the leave to appeal on its merits.

4. The reasons for acquittal of accused Jean Cyrilli Koffi have been mentioned from para no. 28 onwards of the impugned judgment.

5. The trial Court discussed that the prior information was based upon the interrogation of the accused Bobby Verma and the police party had went to Delhi. The primary reason for acquittal is the incomplete option under section 50 of NDPS Act. The Sessions Court was of the view that the offer was not in term of spirit of Section 50 of NDPS Act and acquitted him. Without commenting on the observations made by the Session Court which called for no interference, there is another reason which is extremely suspicious. The interrogation of the co-accused had only pointed out that he had purchased Heroin from present respondent Jean Cyrilli Koffi and he never stated that at that time he would be in possession of Heroin. Despite that, the Investigator on reaching Delhi did not arrest Jean Cyrilli Koffi in the present FIR, rather told him that he has reasons to believe that Jean Cyrilli Koffi is in possession of Heroin. Further it was an altogether different offense and they should have involved the police officers of Delhi but simply based on the recovery of Heroin from the main accused, the police officers went

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to Delhi, where after giving an incomplete option under Section 50 of NDPS Act, they assumed without any information that he is in possession of Heroin. This means that the investigator and the other police party are concealing something material. This assumes importance that when the recovery of Heroin was from Delhi where the investigation has to be conducted by the Police under the control of Government of India, it was not for the Punjab police to have gone and conducted investigation there and arrested the accused without even basis of any private information. Had it been a case of prior information, again the message had to be supplied and information had to be given to the concerned investigator of the jurisdiction of Delhi. The Punjab police has no jurisdiction, extending to all over the country and as such the initial search itself is vitiated. Given above, there is no reason to interfere in the impugned judgment as far as acquittal of Jean Cyrilli Koffi is concerned.

6. Given the above, neither the State has been able to explain the massive delay in filing the appeal, although the Law Department had granted sanction and coupled with that, even on the merits, there is no defect in the judgment because the Punjab Police had no jurisdiction to have searched the respondent because there was no prior information and if there was a prior information then the same should have been informed to the concerned police station of Delhi which was not done. In the facts and circumstances peculiar to the case, it is not a case where while arresting the respondent in the FIR of Punjab, at the time when the search is conducted and then at that point of time contraband was recovered. But in this case, before such arrests, the investigator gave him an offer that they are suspecting him to carry contraband which was neither based on any prior information nor any other reasons and if the police had prior information, then the appropriate agency to conduct the search was Delhi Police and not the Punjab Police. Thus, in the facts and circumstances which are very peculiar to this case, it is not a case for grant of leave or to condone the delay.

7. As such, the application for condonation of delay as well as leave to appeal are dismissed. All pending applications, if any also stands disposed of.

(ANOOP CHITKARA)
JUDGE

(SUKHVINDER KAUR)
JUDGE

20.02.2026
Jyoti Sharma

Whether speaking/reasoned: Yes
Whether reportable: No.