



IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

280

CRM-29508-2019 in/and
CRM-A-2143-2019
Date of decision: 28.07.2025

State of Punjab

.....Applicant/Appellant

Versus

Prince Kumar and others

.....Respondents

CORAM: HON'BLE MRS. JUSTICE MANJARI NEHRU KAUL

Present : Mr. Amit Rana, Sr. DAG, Punjab
for the applicant/appellant.

MANJARI NEHRU KAUL, J.**CRM-29508-2019**

For the reasons mentioned in the application, the same is allowed and delay of 171 days in filing the instant leave to appeal is condoned.

CRM-A-2143-2019

1. The instant leave to appeal has been preferred by the State challenging the judgement dated 11.12.2018 passed by learned Judge, Special Court, Fatehgarh Sahib, whereby respondents No.2 to 4-accused were acquitted of the charges framed against them under Sections 15 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act'), in case FIR No.56 dated 06.06.2014 under Sections 15 and 29 of the NDPS Act, registered at Police Station Mulepur, District Fatehgarh Sahib.

2. The genesis of the case lies in the recovery of 5 kg of poppy husk from one Amarjit Singh (since deceased) on 06.06.2014 by

ASI Sukhwinder Singh while on patrol duty, in the area of village Ucha Reona. Upon being apprehended, Amarjit allegedly consented to a search by the ASI and was found carrying poppy husk concealed in a black polythene bag. Two representative samples of 250 grams each were drawn and sealed at the spot, with the contraband weighing 4.5 kgs.

3. On interrogation, Amarjit Singh purportedly disclosed that he had purchased 6 kgs of poppy husk from New *Vaishno Dhaba* situated near Pipli, Haryana, which was allegedly being run by accused respondents Roshan Lal, Jagjit Singh @ Fauji and their associates, Prince Kumar and Kuldeep Singh. Acting on this disclosure, the police arrested the latter three on 08.06.2014, and claimed to have recovered four plastic bags from the *dhaba* and the house of respondent Jagjit Singh, each containing 35.5 kgs of poppy husk totalling 140 kgs. Samples were drawn and sealed. On 10.02.2015, respondent Roshan Lal was arrested, and his disclosure statement was also recorded under Section 27 of the Indian Evidence Act, 1872.

4. During the investigation, search warrants were obtained from the Magistrate for the premises of accused Jagjit Singh and Soni. While Jagjit Singh was arrested, Soni was found innocent during an inquiry conducted by the DSP and was then discharged.

5. On completion of investigation, the police presented final report under Section 173 of the Cr.P.C., and thereafter, the learned Special Court framed charges under Sections 15 and 29 of the NDPS Act. The accused denied the allegations and claimed trial.

6. To substantiate its case, the prosecution examined eight witnesses, including PW-1 Inspector Karam Chand (Investigating Officer), PW-2 Head Constable Shamsheer Singh (recovery witness), PW-3 ASI Sukhwinder Singh (Initial Investigating Officer), PW-4 Constable Nirvair Singh (sample carrier to the FSL), PW-5 Inspector Kuljit Singh (Part Investigating Officer), PW-6 Rajpal (Patwari Halqa), PW-7 ASI Kuldeep Singh, PW-8 ASI Jasvir Singh (MHC).

7. The prosecution also relied on documentary evidence, including consent memos, disclosure statements, site plans, recovery memos, CFSL reports, and forwarding letters.

8. All accused were examined under Section 313 of the Cr.P.C., during which they denied the allegations and claimed false implication. No evidence was led in defence.

9. Upon hearing arguments and going through the evidence adduced before it, the learned Trial Court returned a verdict of acquittal, finding serious shortcomings in the case of the prosecution.

Submissions on Behalf of the State

10. The learned State counsel has argued that the learned Special Court erred in acquitting the accused despite cogent and credible evidence led by the prosecution. Non-examination of independent witnesses was wrongly held to be fatal, even though official witnesses had sufficiently proved the recovery of the contraband from the accused. It was further argued that delay in sending samples to the FSL was not material, as seals were found in an

intact condition with no evidence of tampering; procedural irregularities, such as non-mention of the CFSL form in forwarding memos or absence of independent corroboration, were insufficient to negate the recovery effected from the accused. Still further, it was argued that the disclosure statement of Amarjit Singh and subsequent recovery of 140 kg of poppy husk from the other accused was sufficient to prove criminal conspiracy under Section 29 of the NDPS Act. Learned State counsel, therefore, urged that in the wake of the aforesaid, the impugned order deserved to be set aside and the accused respondents convicted for offence under Sections 15 and 29 of the NDPS Act.

Findings of the Court

11. I have heard learned counsel for the State and perused the relevant material on record.

12. This Court finds no reason to interfere with the well-reasoned judgement of acquittal passed by the learned Special Court. The following infirmities in the prosecution case are significant and go to the root of the matter:

(i) The prosecution sought to rely heavily on the disclosure statement of Amarjit Singh (now deceased), yet PW-1 Inspector Karam Chand categorically admitted during his cross-examination that no such statement was recorded by him or by ASI Sukhwinder Singh. PW-5 Inspector Kuljit Singh also confirmed that no disclosure statement of Amarjit Singh was recorded.

(ii) Furthermore, the disclosure statement of Roshan Lal (Ex.PF) did not even bear his signature and further led to no recovery of any contraband. In law, a disclosure statement without consequential recovery holds no probative value under Section 27 of the Evidence Act, 1872.

(iii) Further, there is no proof that CFSL Form No.29 was prepared at the spot of recovery or was deposited along with the sample parcels. The forms were neither exhibited nor proved during trial.

(iv) Furthermore, the CFSL reports (Ex.PA/1) made no mention of having received the CFSL form along with the parcels. This omission is fatal, as the CFSL form is crucial to establish continuity and sanctity of the samples.

(v) Still further, no photographic evidence or documentation substantiates the recovery from the new *Vaishno Dhaba*, Pipli. Despite the alleged recovery being made in Haryana, no local police officers were joined, nor was any intimation sent to the police station concerned. PW-5 Inspector Kuljit Singh, admitted that no DDR entry was produced to prove that the raiding team reported the recovery to Police Station Shahabad (near Pipli). The justification offered for not involving the local police is wholly unconvincing and legally untenable.

13. PW-3, ASI Sukhwinder Singh and PW-5, Inspector Kuljit Singh made contradictory statements about whether the *dhaba* was searched, who recorded the disclosure statement, and what procedures were followed. PW-2 (Head Constable Shamsheer Singh) admitted in

cross-examination that he did not visit the place of recovery at Pipli, and no inquiry was conducted in his presence.

14. Still further, the seal used to seal the samples remained in the custody of police officials rather than being handed over to an independent witness, thereby raising the possibility of tampering. The retention of seal by police moreso in the present case raises serious doubt about the genuineness of the recovery.

15. The entire investigation in the present case was conducted by the same official who made the initial recovery i.e. PW-3, ASI Sukhwinder Singh. No effort was made to entrust further investigation to a neutral officer, undermining the fairness of the process. It needs to be emphasised that fairness in investigation is a constitutional mandate under Article 21 of the Constitution of India. All the aforementioned circumstances, without doubt, raise a big question mark about the authenticity of the prosecution case as brought forth against the respondents accused.

16. The prosecution has miserably failed to establish a reliable and legally sustainable chain of custody of the contraband, and has not proved the recoveries in accordance with the mandatory safeguards under the NDPS Act. The glaring procedural lapses, unexplained contradictions, and non-compliance with statutory requirements fatally weaken the case.

17. The learned Special Court has correctly appreciated the evidence and rightly acquitted the accused respondents. There being no perversity or illegality in the impugned judgement, this Court finds no

ground to interfere with the same. Consequently, the instant leave to appeal is hereby dismissed.

28.07.2025

(MANJARI NEHRU KAUL)
JUDGE

Vinay

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No