

**HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR**

S.B. Criminal Appeal No. 609/2002

State of Rajasthan

----Appellant

Versus

Narendra Soni @ Nindi S/o Baggu Ram, by caste Soni, R/o
Kachhi Thario Srikanpur, Ganganagar.

----Respondent

For Appellant(s)	:	Mr. Pawan Kumar Bhati, PP
For Respondent(s)	:	Mr. Chaitanya Gahlot with Ms. Vandana Prajapati, Mr. Bhawani Singh

HON'BLE MR. JUSTICE MANOJ KUMAR GARG

Order

16/07/2025

Instant criminal appeal has been filed by the appellant-State under Section 378(iii) & (i) of Cr.P.C. against the acquittal of the accused-respondents from offences under Section 8/21 of NDPS Act vide judgment dated 02.04.2002 passed by learned Special Judge, NDPS Act, Sriganganagar, in Cr. Case No.9/2000.

Brief facts of the case are that on 05.01.2000 Rajendra Singh, the then SHO Police Station Kotwali, Sriganganagar received secret information that accused respondent Narendra Singh was having contraband in his possession. Upon which, the Police caught him and gave a written notice under Section 50 of NDPS Act and searched him. A total of 24 gram and 400 mgs. smack was recovered from him. Thereafter, an FIR was registered against the accused-respondent and after usual investigation, the police filed challan against him. Subsequently the trial court took

cognizance against the accused-respondent and framed the charge for offence under Section 8/21 of NDPS Act. The accused-respondent denied the charges and claimed trial.

During the course of trial, the prosecution examined as many as eight witnesses and exhibited various documents. Thereafter, statement of accused-respondents were recorded under section 313 Cr.P.C.

Upon conclusion of the trial, the learned trial court vide impugned judgment dated 02.04.2002 acquitted the accused-respondent from offence under Sections 8/21 of NDPS Act. Hence, this criminal appeal.

Learned Public Prosecutor has submitted that there is ample evidence against the accused-respondent regarding commission of offence but the learned trial court did not consider the evidence and other aspects of the matter in its right perspective and acquitted the accused-respondent from offence under Section 8/21 of NDPS Act. The learned trial court has committed grave error in acquitting the accused-respondent. Thus, the impugned judgment deserves to be quashed and set aside and the accused-respondent ought to have been convicted and sentenced for aforesaid offence.

Learned counsel for the respondent has opposed the prayer made by the learned Public Prosecutor and submitted that the learned trial court has rightly acquitted the accused-respondent after due appreciation of the evidence. The judgment of acquittal passed by the learned trial court is just and proper and does not warrant any interference from this Court.

Heard learned counsel for the parties and perused the evidence of the prosecution as well as defence and the judgment passed by the trial.

On perusal of the impugned judgment, it appears that the learned trial court while passing the impugned judgment has considered each and every aspect of the matter and also considered the evidence produced before it in its right perspective. There are major contradictions, omissions & improvements in the statements of the witnesses. The prosecution has failed to prove its case against the accused-respondent beyond all reasonable doubts and thus, the trial court has rightly acquitted the accused-respondent from offence under Section 8/21 of NDPS Act.

In the light of aforesaid discussion, the appellant-State has failed to show any error of law or on facts on the basis of which interference can be made by this Court in the judgment under challenge.

In the case of '**Mrinal Das & others v. The State of Tripura**, :2011(9) SCC 479,' decided on September 5, 2011, the Hon'ble Supreme Court, after looking into many earlier judgments, has laid down parameters, in which interference can be made in a judgment of acquittal, by observing as under:

"An order of acquittal is to be interfered with only when there are "compelling and substantial reasons",for doing so. If the order is "clearly unreasonable", it is a compelling reason for interference. When the trial Court has ignored the evidence or misread the material evidence or has ignored material documents like dying declaration/report of ballistic experts etc.,the appellate court is competent to reverse the decision of the trial Court depending on the materials placed.

Similarly, in the case of **State of Rajasthan v. Shera Ram alias Vishnu Dutta**, reported (2012) 1 SCC 602,' the Hon'ble Supreme Court has observed as under:--

"A judgment of acquittal has the obvious consequence of granting freedom to the accused. This Court has taken a consistent view that unless the judgment in appeal is contrary to evidence, palpably erroneous or a view which could not have been taken by the court of competent jurisdiction keeping in view the settled canons of criminal jurisprudence, this Court shall be reluctant to interfere with such judgment of acquittal."

Similarly in the case of State of **State of Uttarakhand Vs. Sanjay Ram Tamta, reported (2025) 2 SCC 159**,' the Hon'ble Supreme Court has observed as under:--

"6. Trite is the principle that the appellate courts would be slow in reversing an order of acquittal, especially since the presumption of innocence that is always available to the accused; as a basic principle of criminal jurisprudence, stands reinforced and reaffirmed by the acquittal and unless there are very substantive and compelling reasons to do so, there cannot be a reversal of an order of acquittal. Unless it is found that the findings are perverse and the only conclusion possible from the compelling evidence is of guilt; appellate courts will be slow to reverse an order of acquittal.

7. Recently, in *Surender Singh Vs. State of Uttarakhand*, one of us (B.R. Gavai, J.) referring to various binding precedents of this Court succinctly laid down the principle in the following manner in SCC para 24:

24 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."

There is a very thin but a fine distinction between an appeal against conviction on the one hand and acquittal on the other. The preponderance of judicial opinion is that there is no substantial difference between an appeal against acquittal except that while dealing with an appeal against acquittal the Court keeps in view the position that the presumption of innocence in favour of the accused has been fortified by his acquittal and if the view adopted by the trial Court is a reasonable one and the conclusion reached by it had grounds well set out on the materials on record, the acquittal may not be interfered with.

In the light of aforesaid discussion, the appellant has failed to show any error of law or on facts on the basis of which interference can be made by this Court in the judgment under challenge. The order passed by the learned trial court is detailed and reasoned order and the same does not warrant any interference from this Court.

In the facts and circumstances of the case, the present criminal appeal has no substance and the same is hereby dismissed. Record of the trial court be sent back forthwith.

(MANOJ KUMAR GARG),J