

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO.1389 OF 2003

STATE OF PUNJAB

Appellant (s)

VERSUS

BABU SINGH

Respondent(s)

[With appln. for exemption from filing O.T. and office report]

Date: 08/04/2009 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.B. SINHA
HON'BLE DR. JUSTICE MUKUNDAKAM SHARMA

For Appellant(s) Mr. Gagandeep Sharma, Adv. for
Mr. Ajay Pal, Adv./Mr. Kuldip Singh, Adv.

For Respondent(s) Mr. Mahinder Singh Dahiya, Adv. (Not present)

UPON hearing counsel the Court made the following
ORDER

The appeal is dismissed in terms of the signed order.

(Subhash Chander)
A.R.-cum-P.S.

(Pushap Lata Bhardwaj)
Court Master

[Signed order is placed on the file]
IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1389 OF 2003

State of Punjab

.....Appellant

Versus

Babu Singh

.....Respondent

ORDER

It is alleged that on 06th May 1985 the respondent was apprehended by ASI Gulzar Singh and was found to be carrying 2½ Kg. of opium and 25 Kg of poppy husk.

The High Court found that the raid was an organised one. But despite that, the search was not carried out in the presence of an

independent witness. The High Court also commented that although the respondent was arrested on a main thoroughfare and there would be many passersby, but, none of them had been called to be a witness to the search.

On this ground, the High Court has reversed the judgment and order dated 18th May 1989 passed by the Addl. Sessions Judge, Bathinda in Criminal Appeal No.20 of 1989 upholding the judgment and order dated 16th February 1989 passed by the Sub-Divisional Judicial Magistrate, Phul convicting the respondent and sentencing him to undergo rigorous imprisonment for six months and a fine of Rs.500/-.

The occurrence had taken place as far back as on 06th May 1985.

The punishment imposed upon the respondent was rigorous
Crl.A.No.1389/03 (contd.)

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imprisonment for six months. He must have been in custody for some time. 24 years have elapsed since then. Admittedly, apart from the official witness, no other witness was examined. There is, furthermore, nothing to show that for the purpose of carrying out search and seizure even the requirements of Code of Criminal Procedure were complied with.

In any view of the matter, we are of the opinion that it is not a fit case where this Court should have been called upon to exercise its jurisdiction under Article 136 of the Constitution of India.

This appeal is dismissed on this ground.

Sd/-

.....J.
[S.B. SINHA]

Sd/-

.....J.
[DR. MUKUNDAKAM]

SHARMA]
New Delhi.
April 08, 2009.