

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.547 OF 2004

BALWINDER SINGH

Appellant (s)

VERSUS

ASSTT.COMMNR.,CUSTOM & CENTRAL EXCISE

Respondent(s)

WITH

CRIMINAL APPEAL NO.548 OF 2004

O R D E R

These two appellants, along with two others, were found guilty by the District Judge,

Ludhiana for the offences punishable under Sections 18, 22, 23, 25, 28, 29 and 30 of the N.D.P.S.Act and

Section 120-B of the Indian Penal Code. Two of them i.e. Tarlochan Singh, s/o. Chet Singh and

Devinder Singh were acquitted by the High Court and the present appellants i.e. Balwinder Singh and

Tarlochan Singh, S/o.Darshan Singh were found guilty. It is against this that the appellants have come

up before this Court by way of these appeals, i.e. Criminal Appeal No.547 of 2004 was preferred by

Balwinder Singh and Criminal Appeal NO.548 of 2004 was preferred by Tarlochan Singh.

Criminal Appeal No.547 of 2004:

The facts of this case are that on 6.1.1988 two trucks bearing Registration No.PJA 8677

and DIL 3372 were intercepted by the Central Excise and Customs Department, Ludhiana Division.

The officers of the Customs Department conducted search of the vehicle in the presence of witnesses and

it was found that the truck bearing registration no.PJA 8677 was having a secret compartment and

found that 175 Kgs. of heroine and 39 Kgs. of Opium of foreign origin were concealed in this chamber.

The sample was taken and it was found that these articles were Opium and Heroine as contended by the

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prosecution. During the course of investigation, the statement of the appellant was taken under Section

108 of the Customs Act and 15 witnesses have been examined. The appellant herein completely denied

his culpability in the crime.

The present appellant has been found guilty on the ground that he was the registered

owner of the vehicle PJA 8677. Counsel for the appellant contends that he purchased this lorry in

1982, along with one Kesar Singh but in 1986 he transferred the vehicle with a third party and the

Investigating Officer -PW 13, who was examined, deposed that during the course of his investigation he

came to know that though the present appellant was the original owner of vehicle bearing registration

no.PJA 8677, he had sold the vehicle to one Sucha Singh in 1986, however the registration was not

changed in his name. This appellant was convicted solely for the reason that he was the registered

owner of the vehicle PJA 8677. There is no evidence to prove that he knowingly allowed any person to

use the vehicle for any illegal purpose. There is also no evidence to prove the conspiracy set up by the

prosecution. Therefore, it is clear that though the articles were recovered from the lorry, there is no

evidence to show that the appellant had any control over the vehicle nor he was in possession of these

drugs. In the result, we allow the appeal and acquit the appellant Balwinder Singh of all charges

framed against him.

CRIMINAL APPEAL NO.548 FO 2004:

In this case, the appellant Tralochan Singh was the driver of the vehicle DIL 3372. He was

also in custody of vehicle PJA 8677. His statement was recorded under Section 108 of the Customs Act.

From his possession the articles of Opium and Heroine were recovered and in his statement he admitted

that he knew about the presence of these drugs in the vehicle and about the transport of the drugs

illegally from Ludhiana to Bombay. It is evident from the statement made by him that he committed

the offences punishable under Sections 18, 21, 22, 23, 25, 29 and 30 of the NDPS Act. We find no reason

to interfere with the conviction and sentence entered against the appellant Tralochan Singh and the

criminal appeal stands dismissed. We are told that the appellant was convicted of this offence for the

first time. The sentence imposed on him was imprisonment for a period of 14 years. Having regard to

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the facts and circumstances of this case, we reduce the sentence from 14 years to 10 years each for the

offences under the NDPS Act and for the offence under Section 120-B of the IPC. The sentences shall

run concurrently. The direction to pay fine is maintained, but the default sentences shall also run

concurrently.

.....J.

(K.G. BALAKRISHNAN)

.....J.

(B.N. SRIKRISHNA)

NEW DELHI;

22ND FEBRUARY, 2005

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ITEM NO.102

COURT NO.6

SECTION IIA

S U P R E M E C O U R T O F I N D I A

RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO(s). 547 OF 2004

BALWINDER SINGH

Appellant (s)

VERSUS

ASSTT.COMMNR.,CUSTOM & CENTRAL EXCISE

Respondent(s)

(With office report)

WITH

CRIMINAL APPEAL NO. 548 of 2004 (With office report)

Date: 22/02/2005 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.G. BALAKRISHNAN

HON'BLE MR. JUSTICE B.N. SRIKRISHNA

For Appellant(s)

Mr. P.N. Puri, Adv.

Mr. Anil Kumar Karnwal, Adv.

For Respondent(s)

Mr. A. Sharan, A.S.G.,

Mr. Vikas Sharma, Adv.

Mr. P. Parmeswaran, Adv.

Mr. Arun K. Sinha, Adv.

Mr. Sandeep Bhargava, Adv.

UPON hearing counsel the Court made the following

O R D E R

Criminal Appeal NO.547 of 2004 is allowed and Criminal Appeal No.548 of 2004 is

dismissed in terms of the signed order.

(G.V.Ramana)

(
Veera Verma)

Court Master

Court Master

(Signed order is placed on the file)