

Cr1.A.No. 803 OF 1997
IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.803 OF 1997

State of Punjab Appellant

Versus

Partap Singh Respondents

O R D E R

The respondent herein was charged for an offence punishable under Section 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 on an allegation that he was found carrying 1 Kilo gram and 700 grams of Charas on 11.3.1993 when the police patrolling party apprehended him in village Majhi. It is the case of the prosecution that on search of the person of the respondent they seized the above mentioned contraband. The seizure in question was not witnessed by any independent witness even though the said seizure was conducted near a bus stand and a factory as well as in a busy thoroughfare. The trial court after considering the evidence on record came to the conclusion that the seizure is not in accordance with law and it is not safe to rely on the evidence of the investigating agency only. It also came to the conclusion that in spite of the fact that there were independent witnesses available the seizing party did not try to associate them in the search and recovery. On the said basis and also on the ground that there is violation of Section 50 of the said Act it acquitted the respondent. The High Court refused leave to appeal consequently dismissed the State appeal. The State of Punjab is in appeal before us.

In view of the complaint made by the learned counsel for the appellant that the High Court had not considered the material on record while rejecting first appeal, we with the aid of the learned counsel perused the judgments of the courts below as well as material on record. Having done so we also noticed the fact that the investigating agency has not associated any independent witnesses even though they were available in the nearby vicinity. On facts of this case this by itself is a good ground to reject the appeal. The appeal fails and the same is dismissed.

.....J.
(N. SANTOSH HEGDE)

.....J.
(B.P. SINGH)

NEW DELHI,
FEBRUARY 11, 2004.
ITEM No.102

Court No.4

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. 803 of 1997

STATE OF PUNJAB Appellant (s)

VERSUS

PARTAP SINGH Respondent (s)

(With office report)

Date : 11/02/2004 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N. SANTOSH HEGDE
HON'BLE MR. JUSTICE B.P. SINGH

For Appellant (s)Mr.Sarup Singh, Sr.Addl.Adv.Gen., Pb.
Mr. Bimal Roy Jad, Adv.

For Respondent (s)Mr. R.P. Gupta, Sr.Adv.
Mr. Jamshed Bey, Adv.
Mr. Parmanand Gaur, Adv.

UPON hearing counsel the Court made the following
O R D E R

Mr. Sarup Singh, learned counsel argued the matter for about half an hour. Hearing concluded.
The appeal fails and the same is dismissed in terms of the signed order.

(PAWAN KUMAR) (PREM PRAKASH)
COURT MASTER COURT MASTER
(signed order is placed on the file)

(PAWAN KUMAR) (PREM PRAKASH)
COURT MASTER COURT MASTER