



IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No.1910 OF 2013

GURMANGAT SINGH

Appellant(s)

VERSUS

THE STATE OF PUNJAB

Respondent(s)

O R D E R

The appellant has been charged and convicted by the offences punishable under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as the NDPS Act, 1985). The case of the prosecution in a nutshell is that between 1 a.m. to 2 a.m. during a patrol, the appellant was intercepted while driving a tractor and about 200 kgs. of poppy husk was found. In order to comply with Section 50 of the NDPS Act, 1985 a District Superintendent of Police who is in the rank of a gazetted officer was called and the search was subsequently made. The samples of contraband were sent for examination which in turn confirmed that the substance in possession of the appellant was poppy husk.

The Trial Court convicted the appellant by placing reliance upon the prosecution evidence while discarding the evidence of Ex.D1 to D7 which were the attested copies of the telegrams and letters sent by the father of the appellant both to the higher authorities and including the Court alleging that he was taken into illegal detention on 9.5.2002 itself. The High Court in turn was pleased to confirm the conviction by modifying the sentence to 10 years.

Learned counsel appearing for the appellant submitted that though the appellant has most probably completed the period of conviction if one takes into consideration the period of parole granted, he is entitled to succeed on merits. No independent witness has been examined. There is non-compliance of Section 50 of the NDPS Act, 1985. In any case the documents marked as Ex.D1 to D7 not being disputed, ought to have been considered in the correct perspective, notwithstanding the non examination of the father of the appellant.

Learned counsel appearing for the State submitted that both the Courts concurrently found against the appellant. Both the issues pertaining to Ex. D1 to D7 have been considered by both the Courts. Admittedly, the

father of the appellant who is alleged to have been given telegrams and letters has not been examined. As the seizure was made at the odd hours of the night, no independent witnesses were available. In any case, the law does not mandate the presence of the independent witnesses.

We find force in the submission made by the counsel appearing for the appellant particularly with reference to the consideration of Ex.D1 to D7. The genuinity of these documents is not in dispute. Therefore, the father of the appellant did send telegrams, and in one of the telegram sent to the court also in the above documents it was alleged that the appellant has also been taken into custody, much prior to the custody shown by the respondent. At the time of taking the appellant into such custody, there was no FIR registered against the appellant. The approach of both the Courts was that the father of the appellant having not been examined, the said documents cannot be said to have any evidentiary value, and therefore cannot be accepted.

Thus, we are in agreement with the submission made by the counsel for the appellant in this regard. Every trial is a journey towards truth. When materials are

placed before Court, it is duty bound to appreciate the same in the correct perspective.

In such view of the matter, we set aside the impugned judgment and accordingly the appeal is allowed. The appellant is directed to be released forthwith, if not required in any other case.

Pending application(s), if any, shall stand disposed of.

.....J.
(M.M. SUNDRESH)

.....J.
(ARAVIND KUMAR)

New Delhi
28th August 2024

ITEM NO.102

COURT NO.13

SECTION II-B

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

Criminal Appeal No.1910/2013

GURMANGAT SINGH

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VERSUS

THE STATE OF PUNJAB

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Date : 28-08-2024 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M.M. SUNDRESH

HON'BLE MR. JUSTICE ARAVIND KUMAR

For Appellant(s) Mr. Smarhar Singh, AOR
Mr. Rishi Raj, Adv.
Mr. Shweta Kumari, Adv.
Mr. Jai Krishna Singh, Adv.
Mr. Manoj Kumar, Adv.

For Respondent(s) Ms. Rooh-e-hina Dua, AOR
Mr. Ankit Khera, Adv.
Mr. Harshit Khanduja, Adv.

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

The Court inter-alia directed as under:-

"we set aside the impugned judgment and accordingly the appeal is allowed. The appellant is directed to be released forthwith, if not required in any other case. "

Pending application(s), if any, shall stand disposed of.

(CHANDRESH)
COURT MASTER (SH)

(POONAM VAID)
COURT MASTER (NSH)

(Signed order is placed on the file)