

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 221 OF 1999

HIRA SINGHAppellant

Versus

STATE OF HARYANARespondent

O R D E R

The appellant herein who was accused No.3 in Criminal Case No.488/3 of 1995 before the Judicial Magistrate, Ist Class, Pehowa along with accused No.1, Kuldip Singh in the said case was convicted for an offence punishable under Section 9 of the Opium Act and were sentenced to undergo rigorous imprisonment for a period of two years with a fine of Rs.250/- each. During the said trial accused No.2, Sajjan Singh, accused No.4, Kaka Singh expired hence the trial abated against them. An appeal filed by the convicted, appellant herein along with first accused Kuldip Singh before the Additional Sessions Judge, Kurukshetra came to be dismissed and it is the appellant herein alone who preferred a revision before the High Court of Punjab and Haryana at Chandigarh which also came to be dismissed but the High Court considered it appropriate to reduce the sentence from two years rigorous imprisonment to one year. Against this order of the High Court in revision the appellant is before us in this appeal.

The prosecution case stated in brief is that on the receipt of secret information on 15th May, 1985 that a certain quantity of poppy husk was being transported in a truck on 16th May, 1985. Police, Pehowa held Nakabandi at Tukar, Kalsa, Chowk and found a truck coming from the side of Bhat Majra at about 5.30 p.m. on intercepting the said truck they found the four accused persons who had chargesheeted before the trial court with two other persons who were travelling in the said truck and when the truck stopped Kaku, Mohinder Singh and Dalip Singh running away from the spot. Three of the accused before the trial court were caught on the spot while Kuldip Singh was arrested on 20th May, 1985. Since Mohinder Singh and Dalip Singh could not be arrested they were treated as proclaimed offenders and the trial was separated and initiated against the four persons before the trial court as stated above.

During the pendency of the trial A2 and A4 expired and the same abated against them. As stated it is Kuldip Singh and the appellant who were found guilty and sentenced. The trial court relying on the evidence of seizure of poppy husk opium weighing 952 Kgs. which was concealed in 21 bags and was being transported in a truck as stated above found those two accused guilty. Based on the evidence of Kulwant Rai, ASI and Jaspal Singh, SI who were parties to the said seizure convicted the appellant and Kuldip Singh as stated above. It rejected the case of the defence that the independent witness to the seizure having not been examined as also Investigating Officer having not been examined the prosecution case ought not to be accepted. The trial court in this regard held that so far as the independent witness is concerned he had died during the trial, therefore, no fault could be based on prosecution while for not examining of the Investigating Officer the court came to the conclusion that the same will not prejudice the prosecution case because two other officers present at the seizure were examined and relying on the said evidence the trial court convicted the two accused. In the appeal the said conviction has been confirmed by the Additional Sessions Judge who also after considering material on record has concurred with the finding of the trial court. The High Court in turn accepting the prosecution case has also dismissed the revision petition.

Having gone through the material on record with the assistance of the learned counsel for the respondent-State, we are satisfied that there is no error in the impugned order of the two courts below. Hence, the appeal fails and the same is dismissed.

We are told that the appellant is on bail, his bail bonds stand cancelled and he will surrender to serve out the rest of the sentence.

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

.....J.

(B.P. SINGH)

.....J.
(DR. AR. LAKSHMANAN)
NEW DELHI,
APRIL 28, 2004.
ITEM No.108

Court No.3

SECTION IIA

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.221 OF 1999

HIRA SINGH Appellant (s)

VERSUS

STATE OF HARYANA Respondent (s)

Date : 28/04/2004 This appeal was called on for hearing today.

(with office report)

CORAM :

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

For Appellant (s)Ms. Bharati Anand, Adv.(NP)

For Respondent (s)Mr. D.P. Singh, Adv.
Mr. V.K. Garg, Adv.
Ms. Avneet Toor, Adv.

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

Heard learned counsel.

The appeal fails and the same is dismissed in terms of the signed order. We are told that the appellant is on bail, his bail bonds stand cancelled and he will surrender to serve out the rest of the sentence.

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