

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 1372 OF 2010

SURESH & ANR.

.....APPELLANT(S)

Vs.

THE STATE OF HARYANA

.....RESPONDENT(S)

ORDER

The present appeal is directed against the judgment dated 11th September, 2007 upholding conviction of the both the appellants for the offences under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter being referred to as the “NDPS Act”) and sentenced to 10 years imprisonment.

The case of the prosecution was that on 7th June 2000, the Station House Officer of Police Station, Sadar Tohana, along with the patrolling team were proceeding towards Village Haiderwala and when they reached at the bridge of Ratia Canal Branch, they saw a Marshal Jeep bearing registration No. HR-16B/1634 coming from the southern side on the Western Bank of the canal. On seeing the police party, the

driver of the jeep stopped the vehicle before them at short distance and tried to turn back. On this, the police party apprehended the jeep after following it and over-powered the vehicle being driven by appellant Suresh and the co-accused appellant Sumer, who was sitting on the side of the vehicle driver. At this moment, the vehicle was inspected/checked and it was found containing gunny bags lying on the rear seat and rear portion of the vehicle. The investigating Officer suspected some narcotic substance in the gunny bags. At the first instance, he served notice Exh. P6 upon accused Suresh to the effect that the search of the bags is to be taken and if he so desired, the search can be narrated in the presence of gazetted officer or a Magistrate. Notice was signed by the accused appellant and attested by the officer of the team. Accused Suresh vide reply Exh. P7 desired that the search of the bags be taken in the presence of a gazetted officer. At the request made by the appellant Suresh, the communication was sent to the Police Station through wireless for deputing any gazetted officer to the spot for the purpose of search. After some time, DSP Avtar Singh Bhullar(PW-7) reached at the spot, and on his directions, the search was conducted of the bags lying in the vehicle. Those bags were found ten in numbers containing poppy husk. Two samples of 100 grams each were separated from each

gunny bag and converted into parcels. On weighing, remaining poppy husk in each bag was found to be 39 kgs 800 grams and separate parcels of remainder poppy husk in each gunny bag were prepared. All the parcels were sealed and handed over to DSP Avtar Singh. After making all such other formalities, the accused appellants were taken into custody and after investigation, challan was filed and after the case was committed to the Court of Sessions, both the accused appellants were charge-sheeted for offence under Section 15 of the NDPS Act by an Order dated 2nd November, 2000 and after the trial been conducted by the learned Sessions Judge, both the accused appellants were held guilty and convicted for offence under Section 15 of the NDPS Act and sentenced to 10 years imprisonment and to pay a fine of Rupees One Lakh each, in default to payment of fine, to further undergo rigorous imprisonment for one year.

On appeal being preferred before the High Court at the instance of the present appellants, the High Court, after going through the record and taking into consideration the submissions made, found no error in the order of the learned Sessions Judge and after assigning cogent reasons, upheld the order passed by the learned Sessions Judge vide its impugned judgment dated 11th September, 2007 which is a subject matter of challenger before us.

We have heard learned counsel for the parties and find no reason to interfere in the finding of guilt recorded by the learned Sessions Judge and confirmed by the High Court under the impugned judgment, which may call for our interference under Article 136 of the Constitution.

Consequently, the appeal fails and accordingly dismissed.

Since the appellants are released on bail by the Order of this Court dated 18th October 2010, let both the appellants shall surrender and undergo the remaining sentence. If they fail to surrender within four weeks, appropriate action be taken in accordance with law.

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

.....**J.**
(AJAY RASTOGI)

.....**J.**
(ABHAY S. OKA)

New Delhi;
March 09, 2022.

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(s). 1372/2010

SURESH & ANR.

Appellant(s)

VERSUS

STATE OF HARYANA

Respondent(s)

Date : 09-03-2022 This appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE AJAY RASTOGI
HON'BLE MR. JUSTICE ABHAY S. OKA

For Appellant(s) Mr. Sunil Kumar Verma, AOR

For Respondent(s) Mr. Ajay Bansal, AAG
Mr. Gaurav Yadav, Adv.
Ms. Veena Bansal, Adv.
Mr. Sourav Jindal, Adv.
Ms. Babita Mishra, Adv.
Mr. Sanjay Kumar Visen, AOR

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

The appeal is dismissed in terms of signed order.

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

(NEETA SAPRA)
COURT MASTER (SH)
(Signed order is placed on the file)

(BEENA JOLLY)
COURT MASTER (NSH)