

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1187 OF 1999

STATE OF HARYANA
PELLANT

... APP

VERSUS

RAJBIR SINGH
PONDENT

... RES

O R D E R

This appeal is filed by the State of Haryana challenging the judgment of the Punjab and Haryana High Court dated 8th July, 1998 setting aside the conviction and sentence recorded by the trial judge. The respondent herein was convicted for an offence under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'the Act') and sentenced to undergo R.I. for ten years and to pay a fine of Rs.1 lac; in default R.I. for two years. The recovery of 13 kgs. and 500 gms. of Poppy Husk was made in a search of Raxin bag carried by the accused. The High Court has set aside the conviction solely on the ground that the procedure prescribed under Section 50 of the Act has not been complied with.

A three-Judge Bench of this Court in which one of us (Justice G.P.

Mathur) is a party in the case of State of H.P. vs. Pawan Kumar, (2005) 4 SCC 350,

had held that if the search is conducted of a bag, briefcase or any such article or

container which is being carried by the accused is not a search of the person,

therefore, Section 50 would not apply in such a case. The High Court has not

considered evidence on record. This being the position of the law, we set aside the

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order of the High Court and remand the case back to the High Court to decide the case afresh in accordance with law, after the appreciation of the evidence on record.

With the aforesaid direction the appeal is disposed of.

.....J.

(H.K. SEMA)

.....J.

(G.P. MATHUR)

NEW DELHI,

SEPTEMBER 14, 2005.

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ITEM NO.102

COURT NO.9

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). 1187 OF 1999

STATE OF HARYANA

Appellant (s)

VERSUS

RAJBIR SINGH

Respondent(s)

(With office report)

Date: 14/09/2005 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE H.K. SEMA

HON'BLE MR. JUSTICE G.P. MATHUR

For Appellant(s)

Mr. Manjeet Singh, Adv.

Mrs.Vivekta Singh, Adv.

Mr. Harikesh Singh, Adv.

Mr. Harikishan Kataria, Adv.

Mr. Sanjay Rathee, Adv.

Mr.T.V.George,Adv.

For Respondent(s)

Mrs K.Sharda Devi,Adv.

UPON hearing counsel the Court made the following

O R D E R

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Mr. Manjeet Singh, learned counsel argued the matter for about

minutes. Hearing concluded.

back to

The order of the High Court is set aside and the case is remanded

h law, after the the High Court to decide the case afresh in accordance with

appreciation of the evidence on record.

The appeal is disposed of in terms of the signed order.

(PAWAN KUMAR)

(PREM PRAKASH)

COURT MASTER

COURT MASTER

(signed order is placed on the file)