

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.957 OF 2014

RAM KARAN

APPELLANT(S)

VERSUS

UNION OF INDIA

RESPONDENT(S)

O R D E R

1. The only issue that arises for consideration is as to whether the statement recorded under Section 67 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, the NDPS Act) would form the basis of the conviction of the appellant.
2. The appellant was charged and convicted under the provisions of Section 8 read with Section 18 and Section 8 read with Section 29 of the NDPS Act, along with the co-accused persons. He was implicated in pursuant to the statement made by them under Section 67 of the NDPS Act. A statement was obtained from him as well under the said provision which is stated to be in his own handwriting. As the witnesses turned hostile, he was accordingly convicted and sentenced by taking recourse to Section 67 of the NDPS Act. While doing so, reliance was made on the judgment of this Court in 'Kanhaiyalal Vs. Union of

India', reported in (2008) 4 SCC 668. The aforesaid decision of this Court has been found to be an incorrect position of law by a subsequent decision of this very Court. The aforesaid view has been reiterated in 'Balwinder Singh (Binda) Vs. Narcotics Control Bureau', reported in (2023) SCC OnLine SC 1213. The relevant paragraph of the said decision is extracted as follows:

"26. Now that it has been declared in Tofan Singh's cases (2021) 4 SCC 1 that the judgments in the case of Kanhaiyalal, (2008) 4 SCC 668 and Raj Kumar Karwal (1990) 2 SCC 409 did not state the correct legal position and they stand overruled, the entire case set up by the prosecution against Balwinder Singh, collapses like a House of cards. It is not in dispute that Balwinder Singh was not apprehended by the NCB officials from the spot where the *naka* was laid and that Satnam Singh alone was apprehended in the Indica car. The version of the prosecution is that after Satnam Singh was arrested, his statement was recorded under Section 67 of the NDPS Act wherein he ascribed a specific role to the co-accused Balwinder Singh and the Sarpanch. The NCB officers claimed that they were on the lookout for both of them since they had managed to run away from the spot. While Sarpanch could not be apprehended, the NCB officers learnt from reports in the newspaper that Balwinder had been arrested by the Amritsar Police in an NDPS case and was lodged in the Central Jail, Amritsar. Permission was taken from the concerned Court to take Balwinder Singh into custody in the instant case and he was arrested. A notice was served on him under Section 67 of the NDPS Act and his statement was recorded. Treating his statement as a confessional statement, Balwinder Singh was arrested.

27. Once the confessional statement of

the co-accused, Satnam Singh recorded by the NCB officers under Section 67 of the NDPS Act, who had attributed a role to Balwinder Singh and the subsequently recorded statement of Balwinder Singh himself under Section 67 of the NDPS Act are rejected in the light of the law laid down in Tofan Singh (supra), there is no other independent incriminating evidence that has been brought to the fore by the prosecution for convicting Balwinder Singh under the NDPS Act. On ignoring the said confessional statement recorded before the officers of the NCB in the course of the investigation, the vital link between Balwinder Singh and the offence for which he has been charged snaps conclusively and his conviction order cannot be sustained."

3. In such view of the matter, we have no hesitation in setting aside the impugned order. Accordingly, the same stands set aside. The appellant is acquitted of all the charges.
4. The appeal stands allowed. Bail bonds, if any, shall stand discharged.
5. Pending application(s), if any, shall stand disposed of.

.....J.
[M.M. SUNDRESH]

.....J.
[S.V.N. BHATTI]

NEW DELHI;
6th MARCH, 2024

ITEM NO.102

COURT NO.14

SECTION II

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). 957/2014

RAM KARAN

Appellant(s)

VERSUS

UNION OF INDIA

Respondent(s)

Date : 06-03-2024 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.M. SUNDRESH
HON'BLE MR. JUSTICE S.V.N. BHATTIFor Appellant(s) Mr. Ankit Goel, AOR
Mr. Nikhil Sharma, Adv.For Respondent(s) Mr. R Bala, Sr. Adv. (N.P.)
Mr. Rajan Kumar Chourasia, Adv.
Mr. Nishesh Sharma, Adv.
Mr. Sarad Kumar Singhania, Adv.
Ms. Sweksha, Adv.
Mr. Arvind Kumar Sharma, AORUPON hearing the counsel the Court made the following
O R D E R

The appeal is allowed in terms of the signed order.

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

(SWETA BALODI)
COURT MASTER (SH)(POONAM VAID)
COURT MASTER (NSH)

(Signed order is placed on the file)