

(2008) 01 P&H CK 0102

High Court Of Punjab And Haryana At Chandigarh

Case No: None

Ashok Kumar and Bishan Dass

APPELLANT

Vs

State of Haryana

RESPONDENT

Date of Decision: Jan. 23, 2008

Acts Referred:

- Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS) - Section 15

Hon'ble Judges: S.D. Anand, J; A.K. Goel, J

Bench: Division Bench

Final Decision: Dismissed

Judgement

S.D. Anand, J.

These two appeals (Criminal Appeal No. 161-DB of 2006 and Criminal Appeal No. 552-DB of 2007), at the hands of Ashok Kumar and Bishan Dass respectively, arise out of judgment dated 28.01.2006/01.02.2006 vide which the learned Trial Judge convicted them for an offence u/s 15(c) of the Narcotic Drugs and Psychotropic Substances Act (hereinafter referred to as the Act) and sentenced them to undergo rigorous imprisonment for a period of twelve years and to pay fine of Rs. 1,00,000/-each. It was directed that in default of the payment of fine, the appellants shall undergo further simple imprisonment for a period of three years each.

2. The prosecution plea at the trial was as under:

On 18.03.2002, ASI Amarjeet Kaur, posted as Incharge, Special Staff for investigation of the cases under the Act, received a secret information about the smuggling of contraband (poppy straw) by two named persons who are smugglers of that commodity. The further information was to the effect that an indicated person, who is registered owner of Tata-407 Canter bearing registration No. HR-16GA-0129 had provided the vehicle for transportation thereof and that the appellants-Ashok Kumar and Bishan Dass were on that vehicle as cleaner and driver respectively. The vehicle was expected to deliver the consignment at the house of one Bhup Singh (a

non-appellant). It was also the information that the contraband could be recovered if a Naqabandi was held. ASI Amarjeer Kaur entered the information in the DDR register, forwarded a copy thereof to Superintendent of Police, Fatehabad, and formed a raiding party. The other members of the party were PW4 SI Khayali Ram and some other police officials. Veer Singh, Tehsildar-cum-Executive Magistrate was also joined in the party enroute. The exercise was successful and the above indicated vehicle was found carrying 26 bags of contraband weighing 40.8 kg. each. The appellants were found travelling by that vehicle as cleaner and driver respectively and they were also apprehended.

3. PW4 SI Khayali Ram lent un-qualifying support to the prosecution version which is also supported by the testimony of PW5 ASI Amarjit Kaur. The deposition of the above two officials is buttressed by the statement of PW8-Veer Singh (then posted as Tehsildar-cum-Executive Magistrate, Fatehabad).

4. We have been taken through the material obtaining on the file. We find that in spite of the fairly lengthy cross examination directed at those witnesses, their credit could not be shaken or impeached. Their statements inspire confidence and were relied upon by the learned Trial Court for valid reasons. We have not been persuaded to find any fault with the manner of appreciation of the evidence by the learned Trial Judge.

5. It requires pertinent notice that the entire course of investigation, right from the receipt of secret information upto the recovery of contraband, would appear to have been conducted in a transparent and appropriate manner.

6. In the light thereof, we have no hesitation in holding that the appeals deserve dismissal. The finding of conviction deserves to be affirmed. It is so ordered accordingly. However, it is ordered in the totality of the circumstances of the case that the substantive sentence awarded to the appellants shall stand reduced to ten years rigorous imprisonment.