
(2008) 02 P&H CK 0348

High Court Of Punjab And Haryana At Chandigarh

Case No: Criminal Miscellaneous Appeal No. 653-MA of 2007

State of Punjab

APPELLANT

Vs

Ashok Kumar @ Jaggu

RESPONDENT

Date of Decision: Feb. 7, 2008

Citation: (2008) 27 CriminalCC 882

Hon'ble Judges: Uma Nath Singh, J; A.N. Jindal, J

Bench: Division Bench

Advocate: Manoj Bajaj, DAG, for the Appellant;

Final Decision: Allowed

Judgement

Uma Nath Singh, J.

This criminal appeal arises out of the judgment dated 23.07.2007 passed by the Additional Sessions Judge (Judge Special Court), Gurdaspur, in Sessions Case No.248 of 2006, recording acquittal by writing a scanty order, without going into the appreciation of evidence, only on the ground that as the Investigating Officer, being below the rank of SI was not empowered to conduct the investigation, hence the investigation was vitiated. He closed the evidence by order and recorded acquittal of the accused.

2. Learned State counsel has referred to a notification issued by the State Government, which reads as:

"In pursuance of the provisions of Sub-Section (1) of Section 42 and Section 67 of the NDPS Act, 1985 (Central Act of 1985), the President of India is pleased to empower the officers of and above the rank of Assistant Sub Inspector of Police to exercise the powers and perform the duties specified in the aforesaid Sections 42 and 67 within the area of their respective jurisdiction."

3. As per the said notification, the Police Officer's of the rank of ASI and above are empowered to investigate the under the provisions of the NDPS Act. This is a matter of serious concern, that the learned Additional Sessions Judge who is specially

notified to hear NDPS cases would commit a blunder being ignorant of the above notification. Let this order be brought to the notice of Hon"ble Administrative Judge of Gurdaspur Sessions Division for appropriate action as he thinks fit.

4. In view of the aforesaid notification, we accept the appeal and set aside the impugned judgment by remanding case to the Court of Sessions Judge, Gurdaspur to proceed afresh with the case in accordance with law.