

(2011) 05 P&H CK 0284

High Court Of Punjab And Haryana At Chandigarh**Case No:** Criminal Miscellaneous No. 24461-M of 2003

Krishan Kumar and Others

APPELLANT

Vs

State of Punjab

RESPONDENT

Date of Decision: May 26, 2011**Acts Referred:**

- Criminal Procedure Code, 1973 (CrPC) - Section 482
- Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS) - Section 22
- Penal Code, 1860 (IPC) - Section 188, 420, 468, 471

Hon'ble Judges: Nawab Singh, J**Bench:** Single Bench

Judgement

Nawab Singh J.

By this petition, u/s 482 of Code of Criminal Procedure, Petitioners seek quashing of First Information Report (for short "FIR") No. 57 dated March 13th, 2003 registered u/s 22 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the NDPS Act") and Sections 188, 420, 468 and 471 of Indian Penal Code, Police Station City Moga.

2. The FIR was registered against the Petitioners on the accusation that they were found in possession of drugs viz. (i) Prometha Zine Hydrochloride; (ii) Ephedrine Hydrochloride; (iii) Codeine Phosphate; (iv) Buprenorphine Hydrochloride; (v) Diphenhydramine Hydrochloride; (vi) Diazepam; (vii) Nitrazepam; (viii) Chlorpheniramine Hydrochloride; (ix) Maleate; (x) Dextropropoxyphene Hydrochloride and; (xi) Paracetamol without a valid licence.

3. Learned State counsel has submitted a report of the Review Committee wherein it has been recommended that as per notification dated November 14th, 1985 issued by Government of India, no offence u/s 22 of the NDPS Act or under Sections 188, 420, 468 and 471 of Indian Penal Code is made out Criminal Misc. No. 24461-M of 2003. against the Petitioners but since the Petitioners did not produce documents of

sale, purchase and the licence at the time of recovery of drugs so, they have committed offence punishable under the provisions of the Drugs and Cosmetics Act, 1940.

4. In view of above statement of learned State Counsel, the petition is accepted, FIR No. 57 dated March 13th, 2003 registered u/s 22 of the the NDPS Act and Sections 188, 420, 468 and 471 of Indian Penal Code, Police Station City Moga and subsequent proceedings arising therefrom, are hereby quashed. However, the prosecution is at liberty to prosecute the Petitioners under the Drugs and Cosmetics Act, 1940 or any other law for the time being in force.

5. Disposed of.