
(2004) 04 DEL CK 0109

Delhi High Court

Case No: Criminal Revision Petition No. 195 of 2004

Masoom Ali @ Ashu

APPELLANT

Vs

The State

RESPONDENT

Date of Decision: April 7, 2004

Citation: (2004) CriminalCC 731

Hon'ble Judges: R.S. Sodhi, J

Bench: Single Bench

Advocate: Mohd. Saleem, for the Appellant; Richa Kapoor, for the Respondent

Judgement

@JUDGMENTTAG-ORDER

R.S. Sodhi, J.

Crl M.A. 2801/2004

1. Allowed subject to just exceptions.

Application stands disposed of.

Crl. Rev. P. 195/2004

Notice, Ms.Richa Kapoor accepts notice on behalf of the State.

2. This revision is directed against the order dated 21:2.2004 of the Additional Sessions Judge, whereby the application of the petitioner to have the sample re-examined by the CFSL to determine the percentage of diacetylmorphine has been dismissed. The reasoning given by the learned Judge for dismissing the application is that the percentage in the total quantity of recovery is immaterial for the purpose of determining the offence. This reasoning doesn't appeal to me. I am of the view that where in a large quantity of powder recovered the percentage of the narcotic substance is very small then proportionate reduction in the recovery would have to be made in order to ascertain whether the offence falls within the categories mentioned in the NDPS Act.

3. In that view of the matter, I set aside the order dated 21.2.2004 and direct the trial court to have the recovered sample re-examined by the CFSL to ascertain the percentage of diacetylmorphine and proceed in accordance with law. With this Crl. Rev. P. 195/2004 stands disposed of.