

# SUPREME COURT OF INDIA

Thandi Ram

Versus

State of Haryana

(G.B. Pattanaik and M.B. Shah, JJ)

Criminal Appeal No. 1555 of 1995

07.04.1999

## JUDGMENT

The appellant was convicted by the learned Additional Sessions Judge, Hissar under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, for having found to be in possession of 250 gms opium without any permit or licence and sentenced to imprisonment for 10 years. On appeal, the High Court confirmed the conviction and sentence and hence the present provisions of Section 50, 52, 55 and 57 of the Act had not been complied with. The High Court considered these provisions but was of the opinion that the officer concerned having accidentally recovered the article in question, the question of following Section 50 did not arise. So far as the non compliance with the other provisions are concerned, the High Court was of the view that even though the provisions of section 55 may be mandatory but no prejudice having been caused the conviction does not get vitiated. Learned counsel for the appellant contended that in view of the decision of this Court in the case of State of Punjab v. Balbir Singh as well as the three Judge Bench decision in the case of Mohinder Kumar v. State, Panaji, Goa the conclusion of the High Court is not sustainable in law and the conviction of the appellant cannot be sustained. We find sufficient force in the aforesaid contention of the learned counsel for the appellant. In view of the pronouncement of this Court in the aforesaid cases and in view of the finding as recorded in the judgement of the High Court that the provisions of Section 55 and 57 have not been complied with the conviction is bad in law. The appellant has already undergone sentence for 9 years. We, accordingly set aside the impugned judgment of the High Court and that of the learned Additional Sessions Judge, Hissar and acquit the appellant of the charges levelled against him. The appeal is, accordingly, allowed. The bail bond stands discharged.