

SUPREME COURT OF INDIA

Raj Kumar

Vs.

State (N.C.T.) of Delhi

Crl.A.No.866 of 2003

(B. N. Agarwal and H. K. Sema JJ.)

13.07.2004

JUDGMENT

The Order of the Court is as follows

1. Perused the records and heard learned counsel appearing on behalf of the National Capital Territory of Delhi. The appellant was convicted by the trial Court under Section 20 of the *Narcotic Drugs and Psychotropic Substances Act, 1985* (hereinafter referred to as the NDPS Act) and sentenced to undergo rigorous imprisonment for a period of ten years and also to pay a fine of Rs. one lac, in default of payment of fine, to undergo simple imprisonment for a further period of six months. On appeal being preferred, the High Court confirmed the conviction and sentence of the appellant. Hence this appeal by special leave.
2. As this appeal is bound to be succeeded on a short question, it is not necessary to state the facts. According to the prosecution, 5 kg. of charas was recovered from possession of the accused. Undisputedly, the provision of Section 50 of the NDPS Act has not at all been complied with, which has been held to be mandatory and non-compliance thereof would vitiate the conviction.
3. In view of these facts, the appeal is allowed, impugned order rendered by the High Court upholding the conviction of the appellant is set aside and he is acquitted of the charge. The appellant who is in custody is directed to be released forthwith, if not required in connection with any other case.