

# SUPREME COURT OF INDIA

State of Rajasthan

Vs.

Gurmail Singh

CrI.A.No.1179 of 1999

(B.P.Singh and Arun Kumar JJ.)

23.02.2005

## JUDGMENT

### **B. P. Singh, J.**

1. We have heard counsel for the State.
2. This appeal has been preferred by the State of Rajasthan against the judgment and order of the High Court of Judicature for Rajasthan at Jodhpur in Criminal Appeal No.392 of 1996 dated May 6, 1998. The Respondent who had been found guilty of the offence under Section 8 read with Section 15 of the *Narcotic Drugs and Psychotropic Substances Act, 1985* (hereinafter referred to as the Act) was sentenced to 10 years rigorous imprisonment and a fine of Rs.1 lakh by the learned Special Judge, N.D.P.S.Cases, Sri Ganganagar in Sessions Case No.15 of 1995. The Respondent preferred an appeal before the High Court which was allowed by the High Court by its impugned judgment and order.
3. We have perused the judgment of the High Court. Apart from other reasons recorded by the High Court, we find that the link evidence adduced by the prosecution was not at all satisfactory. In the first instance, though the seized articles are said to have been kept in the malkhana on 20th May, 1995, the Malkhana register was not produced to prove that it was so kept in the malkhana till it was taken over by PW-6 on June 5, 1995. We further find that no sample of the seal was sent along with the sample to Excise Laboratory, Jodhpur for the purpose of comparing with the seal appearing on the sample bottles.
4. Therefore, there is no evidence to prove satisfactorily that the seals found were in fact the same seals as were put on the sample bottles immediately after seizure of the contraband. These loopholes in the prosecution case have led the High Court to acquit the respondent.
5. We find no error in the judgment of the High Court.
6. This appeal is, therefore, dismissed.