

Arun Kumar @ Kala

v.

State of Punjab

(Supreme Court Of India)

HON'BLE MR. JUSTICE H.L. DATTU HON'BLE MR. JUSTICE RANIJAN
GOGOI

Criminal Appeal No. 1045 Of 2010 | 08-01-2013

1. This criminal appeal is directed against the judgment and order passed by the High Court of Judicature of Punjab and Haryana at Chandigarh in Criminal Appeal No. 1005-SB of 2001, dated 02.12.2008. By the impugned judgment and order, the High Court has confirmed the judgment of conviction and order of sentence passed by learned Judge, Special Court, Bathinda, dated 11.07.2001.

2. Before us, in this appeal, is Arun Kumar @ Kala, who is convicted for the offence punishable under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 ("the Act" for short) and sentenced to undergo rigorous imprisonment for a period of 10 years and to pay a fine of Rs. 1,00,000/-, and in default of the same to undergo a further period of 2 years of rigorous imprisonment.

3. It is on 19.07.1999, at about 8 p.m., when the Sub-Inspector Amritpal (PW-1) alongwith other police officials and a panchayat member on patrol duty came across the appellant, who was driving a white coloured Maruti car. On suspicion, he was stopped and an option was given to the appellant to either enable the search of the car in presence of a Gazetted Officer or a Magistrate. The appellant being so informed, opted for the former. Thereafter, the Deputy Superintendent of Police arrived at the place of occurrence and after disclosure of his identity to the appellant, a memo was prepared and search of the car was conducted which resulted in seizure of six bags, each containing 35 kgs. of poppy husk without any licence or permit. A sample of 250 grams of poppy husks was collected from the gunny bags and the rest of the poppy husk after being converted into duly sealed parcels, was taken into possession and recovery memos were prepared. Ruqa was sent to the police station, whereof an

FIR was registered. The appellant was arrested after due compliance of mandatory provisions envisaged under the Act.

4. The appellant was charged for the offence punishable under Section 15 of the Act, to which he pleaded not guilty.

5. Learned Special Judge after examining the evidence on record including the evidence of PW-1 (the Investigating Officer), the submissions made by the prosecution in respect of recoveries made and the case of the defense pleading false implication has convicted and sentenced the appellant for the aforesaid offence.

6. On appeal, the High Court, while confirming the judgment and order of the Trial Court, has re-appreciated the entire evidence on record and analyzed the submissions made by the appellant and the respondent- State and has come to the conclusion that the Trial Court has justifiably convicted and sentenced the appellant for the offence punishable under Section 15 of the Act.

7. The appellant, aggrieved by the aforesaid judgment and order of the High Court, is before us in this criminal appeal.

8. We have heard the learned counsel appearing for the parties to the lis and also carefully perused the records of the case, reasoning and the conclusions reached by the Courts below in their respective judgments and orders. Upon such perusal, we note that the submissions made before us have also been advanced by the appellant before the High Court. The Court has discussed and analysed in the impugned judgment and order each one of the contentions raised and argued. The Court has clarified that mere non-endorsement by the author of the FIR or Ruqa would not impregnate the case with perversity. The Court has further observed that there is sufficient material on record to evidence for the fact that the FIR Number, after registration had been sent to PW-1 and was recorded on the exhibits prepared at the scene of recovery on the fateful night. The author of the FIR has in his evidence, admitted to his lapse in not-endorsing the Ruqa but specified that he had sent the FIR Number along with it. Therefore, keeping the aforesaid in mind and the fact that recoveries are made

in presence of a panchayat member, the non-endorsement would not falsify the case of prosecution and in any case would not suggest false implication. The Court has also discussed the arguments canvassed in regard to the breach of Provisions of Section 50 of the Act and has answered the same. We are in agreement with the reasoning and conclusion reached in this regard by the High Court.

9. In view of the aforesaid, we are of the considered opinion that the submissions made by the learned counsel for appellant are devoid of any merit and, therefore, the appeal deserves to be dismissed and is dismissed.

Ordered accordingly.