

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.2027 OF 2012

JAGWINDER SINGH

APPELLANT(S)

VERSUS

STATE OF PUNJAB

RESPONDENT(S)

O R D E R

1. We have heard learned counsel appearing for the parties.
2. The appellant seeks to impugn the judgment rendered by the High Court confirming the conviction delivered by the Trial Court which held that the appellant was guilty of an offence under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'the NDPS Act').
3. The appellant along with others were found in possession of poppy husk amounting to 54 Kgs. Recovery was made from the car in which the appellant was traveling. After the seizure was done in pursuance to the procedure contemplated under the NDPS Act, appropriate orders have been obtained from the Judicial Magistrate to de-seal the contraband and the samples were subsequently sent for examination. The Trial Court convicted the appellant along with others which was subsequently confirmed by the

High Court.

4. The learned counsel appearing for the appellant submits that despite efforts made to contact the appellant, no instructions were received. However, we pointed out to the learned counsel that inasmuch as the Vakalatnama filed on behalf of the appellant, she has to proceed with the matter, which she accordingly did.
5. Learned counsel for the appellant vehemently contended that the appellant was not in conscious possession of the contraband and that the CFCL form was not filled up at the place of recovery. Only the police witnesses have been examined and, therefore in the absence of any independent witness, the appellant ought not to have been convicted. It was also contended that the procedure contemplated under the NDPS Act, with respect to seizure and recovery, has not been complied with. The appellant was merely traveling in the car and, therefore, he ought not to have charged and convicted.
6. The learned counsel appearing for the State submits that both the Courts below considered all the submissions and concurrently held that the appellant is liable to be convicted. The Trial Court had only imposed a minimum sentence of 10 years of rigorous imprisonment on the appellant.
7. We find no merit in this appeal. Law does not require only an independent witness to prove a charge attracting

the provisions of NDPS Act. As was rightly held by the Courts below, there is procedural compliance with respect to arrest, seizure and recovery. PW-3 is competent to undertake the exercise of gathering evidence and, in any case, PW-7 who himself is a gazetted officer was very much present. The recovery was also made from the car. The views expressed by the Courts below that non-filling of the CFCL form at the site where the arrest and recovery was made would not vitiate the case as it constitutes a part of procedural law.

8. Further, the delay in sending the sample for FSL report, in our considered view, is not fatal to the prosecution case. In any case, orders have been obtained from the Jurisdictional Magistrate for undertaking the said exercise which has attained finality.
9. In view of the above discussion, we do not find any perversity in the ultimate conclusion arrived at by the High Court.
10. The appeal stands dismissed. No costs.
11. Pending application(s), if any, shall also stand disposed of.

.....J.
[M.M. SUNDRESH]

.....J.
[ARAVIND KUMAR]

ITEM NO.101

COURT NO.16

SECTION II-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No(s). 2027/2012

JAGWINDER SINGH

Appellant(s)

VERSUS

THE STATE OF PUNJAB

Respondent(s)

Date : 02-11-2023 This appeal was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.M. SUNDRESH
HON'BLE MR. JUSTICE ARAVIND KUMAR

For Appellant(s) Mrs. Kiran Bhardwaj, Adv.
Mr. V. K. Verma, AOR
Mr. Rajat Srivastav, Adv.

For Respondent(s) Ms. Nupur Kumar, AOR
Ms. Muskan Nagpal, Adv.

UPON hearing the counsel the Court made the following
O R D E R

The appeal stands dismissed in terms of the signed order.
Pending application(s), if any, also stand disposed of.

(SWETA BALODI)
COURT MASTER (SH)

(RENU BALA GAMBHIR)
COURT MASTER (NSH)

(Signed order is placed on the file)