

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1541 OF 2008

SURJIT SINGH APPELLANT

VERSUS

STATE OF PUNJAB RESPONDENT

ORDER

1. This appeal by way of special leave arises out of the following facts:

1.1 On the 28th of April, 2004 Sub-Inspector Jaspal Singh P.W.3, alongwith other police officers was on patrol duty in the area of village Kot Mohammad Khan on the Kutcha path leading from village Lohgarh when they noticed the appellant sitting on the roadside of the canal minor on three gunny bags. A scooter was parked nearby. The appellant was apprehended on suspicion and after Sub Inspector Jaspal Singh had disclosed his identity he inquired from the appellant as to whether he would like to be searched in the presence of a Magistrate or a Gazetted Officer. The appellant stated that he would be satisfied if the search was conducted by a Gazetted Officer on which P.W. 5, Bhulla singh Deputy Superintendent of Police, Moga, was summoned to the spot. The gunny bags were thereafter searched and

each of the bags was found to contain 34.750 kgs of poppy straw. A sample was drawn from each of the bags and the samples and bags were sealed. The seized articles and other related material was deposited in the Malkhana at 1:00p.m. the same day.

1.2 On the completion of the investigation, the appellant was brought to trial for an offence punishable under Section 15C read with Section 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985. He pleaded innocence and claimed trial. The trial court relying on the evidence of P.W. 3 Sub Inspector Jaspal Singh, PW 4 Sub Inspector Kirpal Singh who was also a member of the police party, and P.W. 5 DSP Bhulla Singh, held that the case against the appellant had been proved beyond doubt and as the seizure made from him amounted to commercial quantity, the minimum sentence provided under the Act was imposed on him. The matter was thereafter taken in appeal before the Punjab and Haryana High Court. The High Court has, on a reconsideration of the evidence, confirmed the order of the trial judge. Before the trial court as also before the High Court several pleas had been taken they being:(1) no independent witness had been joined at the time of the search and seizure; (2) that the samples had been sent to the laboratory for analysis about four days after the seizure and that

the report of the CFSL was, therefore, suspect as the possibility of the tampering with the samples could not be ruled out; and (3) that the entire incident was the outcome of the malafides on the part of Sub Inspector Jaspal Singh against whom the mother of the appellant had lodged a complaint before senior officers. All the pleas were discussed by the trial court and the High Court with a finding against the appellant.

2. Even today, the learned counsel for the appellant has raised similar pleas. He has pointed out that no independent witness had been joined at the time of the incident and that Sub Inspector Jaspal Singh, P.W. 3, bore animosity against the family of the appellant as the appellant's mother had lodged a complaint against him, and as the samples had been sent late to the laboratory it was clear that their sanctity had been compromised with the result that the report of the laboratory was also under suspicion.

3. The learned counsel for the State has, however, controverted the pleas and urged that categorical finding had been recorded on all aspects and interference at this stage was not called for.

4. We have considered the arguments advanced very carefully. It is true that no independent witness had been involved and no attempt had been made in that direction. However, keeping in mind that the seizure

had been effected at about 5:30a.m. and was the outcome of a sudden meeting between the police party and the appellant, it was difficult to get an independent witness. In any case, we find that Sub Inspector Jaspal Singh, PW 3 SI Kirpal Singh, P.W. 7, DSP Bhulla Singh and several others had also been present at the time of the incident and all have supported the seizure that had taken place. Even assuming that SI Jaspal Singh bore some animosity the possibility of false implication has been dispelled by the presence of the other police officers particularly DSP Bhulla Singh.

5. It is true that the samples appear to have been sent after a delay of four days and the messenger who took the samples has not been examined as a prosecution witness. The fact remains, however, that the seals found on the samples were intact when the samples had been received in the laboratory and, more significantly, when the inventory of the samples was taken in the Malkhana long after, the seals were found to be intact at that stage as well. We must take it, therefore, that the report of the Laboratory was also accurate and reflected the true state of affairs as to the seizure.

6. We, accordingly, find no merit in the appeal which stands dismissed.

.....J
[HARJIT SINGH BEDI]

.....J
[CHANDRAMAULI KR. PRASAD]

NEW DELHI
JANUARY 12, 2011.

