

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. 112 OF 2011

STATE OF PUNJAB

.....

APPELLANT

VERSUS

PIARA SINGH

.....

RESPONDENT

O R D E R

1. This appeal by way of special leave is directed against the judgment of the Punjab and Haryana High Court dated 17th July, 2007 whereby the High Court has held that poppy husk which was 26 kilograms in weight, had been recovered from the respondent-accused was a small quantity in terms of the Notification dated 2nd October, 2001 and as such the sentence of ten years which had been awarded to the respondent for the offence under Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 should be reduced to that already undergone i.e. two years. The only point raised by the learned counsel for the State of Punjab

is that the aforesaid amendment would not be applicable to appeals that were pending in the High Court and as such the judgment of the High Court was erroneous on this score. We see that the judgment of the trial court convicting the respondent and sentencing him as already indicated above was of the 15th of February, 2001 and that the High Court rendered its judgment on the 17th of July, 2007. It appears to us that the issue has been settled by this Court in Basheer V. State of Kerala (2004) 3 SCC 609 [para 28] wherein it has been observed as under:

"28. In the result, we are of the view that the proviso to Section 41 (1) of the amending Act 9 of 2001 is Constitutional and is not hit by Article 14. Consequently, in all cases, in which the trials had concluded and appeals were pending on 2.10.2001, when amending Act 9 of 2001 came into force, the amendments introduced by the amending Act 9 of 2001 would not be applicable and they would have to be disposed off in accordance with the NDPS Act, 1985, as it stood before 2.10.2001. Since there are other contentions of law and fact raised in each of these cases, they would have to be placed before the appropriate Benches for decision and disposal in accordance with the law."

2. As the Hon'ble Judge of the High Court appears to have been oblivious of this judgment, we are of the opinion that this matter needs to be remanded for a re-look on all issues to the High Court, more

particularly, as the respondent, though served, has not put in appearance.

3. The appeal is allowed and the matter is remanded to the High Court for decision afresh in accordance with law.

.....J
[HARJIT SINGH BEDI]

.....J
[GYAN SUDHA MISRA]

NEW DELHI
AUGUST 10, 2011.

