

CASE NO.:
Appeal (crl.) 1185 of 1999

PETITIONER:
JAGAR SINGH

Vs.

RESPONDENT:
STATE OF HARYANA

DATE OF JUDGMENT: 14/12/2000

BENCH:
M.B.Shah, S.N.Phukan

JUDGMENT:

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This appeal has been filed against the judgment and order dated 30th June, 1998 passed by the High Court of Punjab & Haryana at Chandigarh dismissing the Criminal Appeal No.502 DB of 1997 filed by the present appellant and confirming the judgment and order passed by the Additional Sessions Judge, Bhiwani in NDPS Act Case No.15/96 and Sessions Trial No.49/96 on 17th/21st March, 1997, whereby the appellant Jagar Singh and another person Sukhdev Singh were convicted and sentenced to rigorous imprisonment for 20 years and to pay a fine of Rs.2 lakhs each and in default of payment of fine to suffer further rigorous imprisonment for a period of 5 years. The High Court allowed the appeal filed by Sukhdev Singh but confirmed the conviction of the appellant Jagar Singh. However, the High Court modified the sentence and reduced it to 12 years rigorous imprisonment. The Court also reduced the fine from Rs.two lakhs to Rs.one lakh and in default to undergo rigorous imprisonment for a further period of one year.

At the time of hearing of this appeal, Mr. Rajiv K. Nanda, learned Amicus Curiae has taken us through the material evidence on record. The case of the prosecution is that the appellant was the driver of a truck bearing No. HR-24/2851, which was stopped because of nakabandi on Singhani Chowk on Loharu Dighawa road, district Bhiwani. After the truck was stopped, one person opened the door from the side normally occupied by conductor and ran away from the truck. The driver of the truck was, however, apprehended and questioned as the police party suspected that some narcotic material was in the truck and the choice was given to the driver Jagar Singh as to whether he would like to be searched by a gazetted officer. After obtaining his reply in affirmative, Raj Gopal, DSP, Loharu was summoned on the spot by a wireless message. After he arrived, the truck was searched and 90 bags of poppy-husk, each bag containing 40 kg. poppy-husk, were found. Besides, 125 bags of salt were also found. After completing necessary formalities, seizing of articles and drawing samples, the accused-appellant was arrested. After

completing the investigation, the accused was challaned and thereafter tried by the Additional Sessions Judge, who convicted and sentenced him as stated above.

For connecting the accused with the crime, prosecution mainly relied upon the evidence of PW3 Rajgopal DSP and PW4 Med Singh, SI of Police Station City Jind, district Bhiwani. In the statement under Section 313 Cr.P.C., the accused apart from denying the prosecution version has stated that police party stopped his truck by stating that they want the truck for begar. As he refused to oblige them, they took him to the police station, gave beatings and falsely implicated in this case.

In our view, the High Court as well as the Additional Sessions Judge have rightly relied upon the evidence of the aforesaid two witnesses. There was no reason to disbelieve PW3 Rajgopal DSP who went at the spot after receiving wireless message. The statement made under Section 313 Cr.P.C. is without any substance because neither of the prosecution witnesses were asked a question that the police wanted to use the truck and as the accused refused to hand over the said truck, he was falsely implicated. Further considering the fact that a large quantity of poppy-husk i.e. 90 bags containing 3600 k