

Thandi Ram vs State Of Haryana on 7 April, 1999

Equivalent citations: 2000CRILJ588, 2000(69)ECC634, JT1999(3)SC231, 1999(3)SCALE117, (2000)1SCC318, AIR 2000 SUPREME COURT 468, 2000 (1) SCC 318, 1999 AIR SCW 4609, 1999 SC CRIR 445, 2000 SCC(CRI) 189, 1999 (3) JT 231, (1999) 3 ALL WC 1986, (1999) 2 RECCRIR 857, (1999) 1 EASTCRIC 1252, (1999) 2 EFR 179, (1999) 25 ALLCRIR 990, (1999) 38 ALLCRIC 850

Author: M.B. Shah

Bench: M.B. Shah

ORDER

1. The appellant was convicted by the learned Additional Sessions Judge, Hisar Under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985 for having found to be in possession of 250 grms. opium without any permit or licence and sentenced to imprisonment for 10 years. On appeal, the High Court confirmed the conviction and sentence and hence the present appeal. Before the High Court it was urged on behalf of the appellant that the provisions of Sections 50, 52, 55 and 57 of the Act had not been complied with. The High Court considered these provisions but was of the opinion that the concerned officer having accidentally recovered the article in question of following Section 50 did not arise. So far as the non-compliance of the other provisions are concerned, the High Court was of the view that even though the provisions of Section 55 may be mandatory but no prejudice having been caused the conviction does not get vitiated. Learned counsel for the appellant contended that in view of the decision of this Court in the case of State of Punjab v. Balbir Singh as well as 3 Judge Bench decision in the case of Mohinder Kumar v. State, Panaji, Goa the conclusion of the High Court is not sustainable in law and the conviction of the appellant cannot be sustained. We find sufficient force in the aforesaid contention of the learned counsel for the appellant. In view of the pronouncement of this Court in the aforesaid cases and in view of the finding as recorded in the judgment of the High Court that provisions of Sections 55 and 57 have not been complied with the conviction is bad in law. The appellant has already undergone sentence for 9 years. We, accordingly, set aside the impugned judgment of the High Court and that of the learned Additional Sessions Judge, Hisar and acquit the appellant of the charges leveled against him. The appeal is, accordingly, allowed. The bail bond stands discharged.