

Form No: HCJD/C-121.

JUDGEMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD

JUDICIAL DEPARTMENT

Criminal Appeal No. 111 of 2015

Shakeel Ahmed.

Vs

The State, etc.

DATE OF HEARING: 19.06.2019.

**APPELLANT BY: Mr. Najeeb Ullah Khan Khattak,
Advocate.**

**RESPONDENT BY: Mr. Asif Khokhar, Advocate, Special
Prosecutor/ANF.**

ATHAR MINALLAH, CJ.- This appeal is directed against judgment, dated 07.05.2015, whereby the appellant was convicted under section 9-C, of the Control of Narcotic Substances Act, 1997 (hereinafter referred to as the "**Act of 1997**") and sentenced to one year rigorous imprisonment. In addition an amount of Rs. 10,000/- was imposed as fine.

2. The facts, in brief, are that at about 4.00 p.m on 29.11.2013 the appellant was searched by the police officials which led to recovery of 1050 grams of narcotic substance from a shopping bag which he was carrying. Samples were

separated and sealed by the Investigating Officer. The sealed samples were sent to the Chemical Examiner, Government of Punjab, Rawalpindi and vide report, dated 06.12.2013, Ex-PZ the latter confirmed that the samples contained narcotic substance. The charge was framed against the appellant on 15.01.2014. Prosecution produced five witnesses. The appellant preferred not to be examined under oath and his statement under section 342 of the Criminal Procedure Code (hereinafter referred to as "**Cr.P.C**") was, therefore, recorded.

3. The learned counsel for the appellant has argued that; the prosecution could not establish its case beyond a reasonable doubt; the report of the Chemical Examiner is not in consonance with the law laid down by the august Supreme Court in case titled "*The State through Regional Director ANF vs. Imam Bakhsh and others*" [2018 SCMR 2039]. Moreover, the safe custody of the samples raises doubts.

4. The learned State counsel, on the other hand, has argued that; the prosecution had established its case beyond a reasonable doubt; the depositions of the witnesses were consistent and inspired confidence.

5. The learned counsel for the appellant and the learned State counsel have been heard and the record perused with their able assistance.

6. The appellant was arrested and a criminal case was registered against him after narcotic substance was recovered from the shopping bag, which he was carrying. The samples were separated by the Investigating Officer and no violation of the law enunciated by the august Supreme Court in case titled "Ameer Zeb Vs. The State [PLD 2012 Supreme Court 380] has been pointed out. Moreover, the Chemical Examiner's report meets the requirements of the law laid down by the august Supreme Court in case "*The State through Regional Director ANF vs. Imam Bakhsh and others*" [2018 SCMR 2039].

7. The testimonies of the witnesses who entered the witness box were found to be trustworthy, reliable and no material contradiction has been pointed out by the learned counsel for the appellant. The prosecution had established its case beyond a reasonable doubt and, therefore, no interference is required with the well reasoned impugned judgment.

8. For what has been discussed above, this appeal is without merit and is, therefore, accordingly dismissed.

(CHIEF JUSTICE)

(MIANGUL HASSAN AURANGZEB)
JUDGE