

Form No: HCJD/C-121

JUDGMENT SHEET

IN THE ISLAMABAD HIGH COURT, ISLAMABAD
(JUDICIAL DEPARTMENT)

Criminal Appeal No. 152 of 2022

Anti Narcotics Force, through its Regional Director ANF, Rawalpindi

Versus

DANAS Pharmaceuticals (Pvt) Limited & 8 others

Appellant by : Raja Tauqeer Ahmed Satti, Special Public
Prosecutor, ANF

Respondents by : Mr Abdur Rasheed Sheikh, Advocate.
Mr Ahmed Nawaz Bhatti, Advocate.
Mr Ahmed Junaid, Advocate.

Dates of Hearing : 26-04-2022

Athar Minallah, C.J.- Through this consolidated judgment, we will decide the appeals listed in "Annexure-A" attached hereto.

2. The appeals are directed against, order, dated 11-02-2022, whereby the learned Judge, Special Court (CNS), Islamabad has dismissed the applications filed by the Anti Narcotics Force (*hereinafter referred to as the "ANF"*). The applications were filed in 2012 praying therein to order freezing of assets of the respondents under section 37(2) of the Control of Narcotic Substances Act, 1997 (*hereinafter referred to as the "Act of 1997"*).

3. It is an admitted position that the freezing order was passed in 2012 while the applications were placed before the learned trial court at Islamabad in May, 2018 i.e. after more than five years from the relevant date. Initially report under section 173 of the Code of Criminal Procedure, 1898 (*hereinafter referred to as the "Cr.P.C."*) was submitted before the learned trial court at Rawalpindi. The jurisdiction of the learned trial court was challenged and the learned Lahore High Court vide judgment, dated 17-11-2014, allowed the constitutional petition and declared that the learned trial court at Rawalpindi was bereft of jurisdiction. The learned High Court ordered return of the prosecution case so that it could be submitted before a competent court. The prosecution, therefore, submitted its case for trial before the learned court at Islamabad. The applications under 37(2) of the Act of 1997 were submitted before the learned trial court in May, 2018. The applications were dismissed on the ground of being incompetent under section 37(2). The said provision is reproduced as follows.-

"Where in the opinion of the Director –General or an officer authorised under Section 21 an offence is being or has been committed, he may freeze the assets of such accused and within seven days of the freezing shall place before the court the material on the basis of which the freezing was made and further continuation of the freezing or otherwise shall be decided by the Court."

4. The above provision has profound consequences in the context of the fundamental rights guaranteed under Articles 23 and 24 of the Constitution of the Islamic Republic of Pakistan, 1973. Moreover, it is settled law that where the manner of doing a particular act is prescribed under a statute, the act must be done in that manner or not at all. Reliance is placed on "*Muhammad Anwar and others vs. Mst. Ilyas Begum and others*" [PLD 2013 SC 255]. The provisions of section 37 of the Act of 1997, are, therefore, to be strictly construed and the manner prescribed therein is definitely to be treated as mandatory because of its consequences in the context of the guaranteed fundamental rights.

5. The learned Special Prosecutor representing ANF, despite his able assistance, could not persuade us that the learned trial court has misinterpreted the provisions of the Act of 1997 nor that discretion has been exercised arbitrarily or unreasonably.

6. We are, therefore, not inclined to interfere with the well-reasoned orders impugned and consequently the appeals are hereby **dismissed**.

(CHIEF JUSTICE)

(ARBAB MUHAMMAD TAHIR)
JUDGE