

State Of Rajasthan vs Gurmail Singh on 23 February, 2005

Equivalent citations: AIR 2005 SUPREME COURT 1578, 2005 AIR SCW 1333, (2005) 28 ALLINDCAS 540 (SC), 2005 (2) UJ (SC) 860, 2005 (3) SRJ 422, 2005 (2) SCALE 394, 2005 (3) SCC 59, 2005 CRILR(SC MAH GUJ) 328, (2005) 2 JT 574 (SC), 2005 (1) JKJ 39, 2005 (28) ALLINDCAS 540, 2005 (2) SLT 647, (2005) 1 CURCRIR 448, (2004) 3 RAJ LR 686, (2005) 1 RECCRIR 339, (2004) 2 ORISSA LR 545, (2004) 29 OCR 670, (2005) 25 ALLINDCAS 289 (ORI), 2005 CRILR(SC&MP) 328, (2005) 1 RAJ CRI C 310, (2005) 2 ORISSA LR 466, (2005) 30 OCR 690, (2005) 121 ECR 146, (2005) 1 CRIMES 346, (2005) 2 EASTCRIC 243, (2005) 1 EFR 435, (2005) 2 RECCRIR 58, (2005) 1 CURCRIR 228, (2005) 2 SUPREME 229, (2005) 2 ALLCRIR 1133, (2005) 2 SCALE 394, (2005) 51 ALLCRIC 928, (2005) 1 CHANDCRIC 287, (2005) 2 ALLCRILR 369, (2004) 4 WLC (RAJ) 596

Bench: B.P.Singh, Arun Kumar

CASE NO.:

Appeal (crl.) 1179 of 1999

PETITIONER:

STATE OF RAJASTHAN

RESPONDENT:

GURMAIL SINGH

DATE OF JUDGMENT: 23/02/2005

BENCH:

B.P.SINGH & ARUN KUMAR

JUDGMENT:

J U D G M E N T B.P.SINGH, J.

We have heard counsel for the State.

This appeal has been preferred by the State of Rajasthan against the judgment and order of the High Court of Judicature for Rajasthan at Jodhpur in Criminal Appeal No.392 of 1996 dated May 6, 1998. The Respondent who had been found guilty of the offence under Section 8 read with Section 15 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as the Act) was sentenced to 10 years rigorous imprisonment and a fine of Rs.1 lakh by the learned Special Judge, N.D.P.S.Cases, ...2/-

Sri Ganganagar in Sessions Case No.15 of 1995. The Respondent preferred an appeal before the High Court which was allowed by the High Court by its impugned judgment and order. We have perused the judgment of the High Court. Apart from other reasons recorded by the High Court, we find that the link evidence adduced by the prosecution was not at all satisfactory. In the first instance, though the seized articles are said to have been kept in the malkhana on 20th May, 1995, the Malkhana register was not produced to prove that it was so kept in the malkhana till it was taken over by PW-6 on June 5, 1995. We further find that no sample of the seal was sent along with the sample to Excise Laboratory, Jodhpur for the purpose of comparing with the seal appearing on the sample bottles. Therefore, there is no evidence to prove satisfactorily that the seals found were in fact the same seals as were put on the sample bottles immediately after seizure of the contraband. These loopholes in the prosecution case have led the High Court to acquit the respondent.

...3/-

We find no error in the judgment of the High Court. This appeal is, therefore, dismissed.