

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Justice Jamal Khan Mandokhail
Justice Syed Hasan Azhar Rizvi
Justice Naeem Akhtar Afghan

Criminal Petition No.474-L of 2024

(Against the judgment dated 26.03.2024 passed by the Lahore High Court,
Lahore in Criminal Appeal No.80476 of 2023)

Haider Mehar

...Petitioner(s)

Versus

The State

...Respondent(s)

For the Petitioner(s) : Sardar Khurram Latif Khosa, ASC
(via video-link Lahore)

For the State : Mr. Irfan Zia,
Additional Prosecutor General, Punjab

Date of Hearing : 24.05.2024.

JUDGMENT

Syed Hasan Azhar Rizvi, J.- Indicted by the learned Additional Sessions Judge, Gujranwala in case FIR No.292 dated 16.02.2023, registered under Sections 9(1)3-C and 9(1)6-C of the Control of Narcotic Substances Act, 1997 at Police Station Sabzi Mandi, Gujranwala, the petitioner was convicted and sentenced as under:-

"Under Section 9(1)3(a) of Control of Narcotic Substances Act, 1997:
Rigorous imprisonment for 18 months with fine of Rs.5,000/-, in default whereof to further undergo SI for one month; and

Under Section 9(1)6(a) of Control of Narcotic Substances Act, 1997:
Rigorous imprisonment for 18 months with fine of Rs.25,000/-, in default whereof to further undergo SI for two months.

Benefit of Section 382-B Cr.P.C. was extended to the petitioner."

2. Being aggrieved of his conviction and sentence, the petitioner approached the Lahore High Court, Lahore by filing a criminal appeal, which was dismissed; hence this petition.

3. Facts of the case, in brief, are that on 16.02.2023, the complainant, namely, Amanat Ali, Sub-Inspector along with Muhammad Asif, 2086/C and Sajjad Hussain, 2776/HC, while on patrolling duty were present at Malik Travel Sheikhpura Road. The complainant received a spy information that the petitioner who is a proclaimed offender of First Information Report No.1192 of 2022 under Section 322 PPC, Police Station Sabzi Mandi Gujranwala might come to gape chowk for supply of narcotics and if raid is conducted he can be arrested. A raid on the pointed place was accordingly conducted and the petitioner was apprehended who disclosed his name as Haider Maher, petitioner herein.

4. On personal search of the petitioner by the complainant, charas, dark brown colour in mound form, carrying in a blue shopper holding in his right hand was recovered and on weighing the same was found to be 2300 grams. The complainant separated 115 grams charas as a representative sample. Two sealed parcels i.e. one as a representative sample and the other for the remaining charas, were prepared by the complainant.

5. On further search of the petitioner, heroin was also recovered from his possession containing a small shopper and on weighing that was found to be 700 grams, out of which the complainant separated 35 grams and prepared two sealed parcels thereof. Sale proceeds amounting to Rs.43,000/- was also recovered from the possession of the petitioner.

After investigation, the petitioner was found guilty and a report under Section 173 Cr.P.C. was submitted. The petitioner was summoned to face trial. He was charge sheeted under Sections 9(1)3-C and 9(1)6-C of the Control of Narcotic Substances (Amendment) Act, 2022 to which he pleaded not guilty and claimed trial. In order to prove its case, the prosecution produced as many as six witnesses. In his statement under Section 342 Cr.P.C. the petitioner raised his plea of innocence. He neither opted to appear his own witness under Section 340(2) Cr.P.C. nor produced any defence evidence.

6. Learned counsel for the petitioner contends that the impugned judgment passed by the High Court is against law and facts; that the impugned judgment is suffering from misreading or non-reading of evidence on the record; that the prosecution has failed to prove its case against the petitioner and that the impugned judgment is based on presumptions and assumptions, thus liable to be set aside.

7. Conversely, the learned Law Officer has faithfully defended the impugned judgment being based on proper appreciation of evidence.

8. Heard the learned counsel for the petitioner so also the learned Law Officer at great length and scanned the material available on the record with their able assistance. It reflects from the record that all the prosecution witnesses in their statements have unanimously given details *qua* raid, arrest of the petitioner, search, recovery of the contraband,

preparation of samples, its safe transmission to the police station, safe custody and the delivery thereof to the Punjab Forensic Science Agency (*PFSA*). During cross-examination, the prosecution witnesses remained consistent. The report of the PFSA confirms the nature of the contraband recovered from the possession of the petitioner.

9. Nothing has been brought on the record by the prosecution to falsely implicate the petitioner in the commission of an offence. All aspects of the matter, legal as well as factual, have elaborately been dealt with by the Courts below and the reasons and conclusions drawn are apt. Learned counsel for the petitioner has failed to point out any misreading or non-reading so also infirmity or illegality on the record justifying interference by this Court.

10. For what has been discussed above, this petition bereft of merit is dismissed and leave is declined. Above are the reasons of our short order pronounced on event date.

Judge

Judge

Judge

Islamabad, the

24st May, 2024

Approved for reporting

Ghulam Raza/*

