

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Mushir Alam

Mr. Justice Qazi Muhammad Amin Ahmed

Criminal Petition No.1806-L of 2017

(Against the judgment dated 8-11-2017 passed by the Lahore High Court Lahore in Crl. Appeal No.338-J/2014)

Shabbir Hussain

...Petitioner(s)

Versus

The State

...Respondent(s)

For the Petitioner(s): Mr. Mazhar Iqbal Sidhu, ASC

For the State: Raja Inam Ameen Minhas,
Special Prosecutor, ANF

Date of hearing: 09.09.2020.

ORDER

Qazi Muhammad Amin Ahmed, J.- On a tip off, Shabbir Hussain, petitioner, accompanied by his wife Sakina Bibi and two minor daughters was surprised by a contingent of Anti Narcotic Force Faisalabad on 29.4.2013 in service area of *Adda Johal*. Upon search, the couple was found in possession of 15.600 kg, separately held by each in the bags carried by them; they claimed trial that resulted into their convictions under section 9(c) of the Control of Narcotic Substances, Act 1997; each was sentenced to imprisonment for life vide judgment dated 18.6.2014. The High Court maintained the convictions, however, substantially reduced the fine imposed by the trial Court; sentence awarded to Sakina Bibi co-accused was also reduced to the period already undergone by her vide impugned judgment dated 8.11.2017, *vires* whereof are being assailed on the grounds that it is extremely improbable that the petitioner accompanied by his better half and two minor daughters would carry

such a huge cache of contraband; that despite availability none from amongst the public came forward to attest the recovery, otherwise suspect in view of discrepant statements of the witnesses; forensic report, on samples belatedly dispatched, inherently deficient in protocol details, was the last nail in the coffin, concluded the learned counsel. The learned Law Officer, contrarily, faithfully defended the judgment.

2. Heard. Record perused.

3. Recovered contraband is quite a cache, in the absence of any apparent reason to falsely implicate the petitioner, by itself negates, hypothesis of fake imposition, that too, on a person travelling alongside his family, arrested at a place far away from his abode. Presence of a lady constable who frisked and arrested the co-accused goes a long way to support the prosecution case, suggestive of a methodology not unusual in drug trafficking; purported semblance of a family travelling together in routine appears to have been foiled by receipt of timely information, a scenario seemingly probable in circumstances.

Mehmood-ul-Hassan Inspector (PW-3) joined by Mumtaz Bibi Lady Constable (PW-4) in the witness box furnished details of the arrest and recovery. We have gone through their statements to find them in a comfortable and confident unison on all the salient aspects of the raid as well as details collateral therewith. Learned counsel for the petitioner has not been able to point out any substantial or major variation or contradiction in their statements that may possibly justify to exclude their testimony from consideration. On the contrary, it sounds straightforward and confidence inspiring without a slightest tremor. Absence of a witness from the public, despite possible availability is not a new story; it is reminiscent of a long drawn apathy depicting public reluctance to come forward in assistance of law, exasperating legal procedures and lack of witness protection being the prime reasons. Against the above backdrop, evidence of official witnesses is the only available option to combat the menace of drug trafficking with the assistance of functionaries of the State tasked with the responsibility; their evidence, if found confidence inspiring, may implicitly be relied upon without a demur unhesitatingly; without a blemish, they are second to none in status. Similarly, forensic report is sufficiently detailed to conclusively establish narcotic character of the

contraband. The argument is otherwise not available to the petitioner as he never disputed the nature of substance being attributed to him nor attempted to summon the chemical analyst to vindicate his position. A challenge illusory as well as hyper-technical is beside the mark in the face of "*proof beyond doubt*" sufficient to prove the charge to the hilt. Petition fails. Leave declined.

Judge

Judge

Islamabad, the
9th September, 2020
Not approved for reporting
Azmat/-

