

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT: MR. JUSTICE MANZOOR AHMED MALIK
MR. JUSTICE MAZHAR ALAM KHAN MIANKHEL
MR. JUSTICE QAZI MUHAMMAD AMIN AHMED

Jail Petition No.348 of 2019

*(Against the judgment dated 18.04.2019 of the
Lahore High Court, Lahore passed in Criminal
Appeal No.866 of 2017)*

Ibrar Ullah

Petitioner(s)

VERSUS

The State

...Respondent(s)

For the Petitioner(s) Mr. S.M. Mehmood Khan Sadozai, ASC
Ch. Akhtar Ali, AOR

For the State: Mirza Abid Majeed
Deputy Prosecutor General, Punjab

Date of hearing: 27.10.2020.

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ORDER

Qazi Muhammad Amin Ahmed, J.- During a routine haul up, Ibrar Ullah, petitioner, was intercepted shortly after alighting a public vehicle hailing from Peshawar on a police post set up within the precincts of Police Station Rawat at 9/10:00 on 10.10.2016; baffled by a sudden encounter, he attempted to slip away, however, was subdued by the contingent with 3500 grams of contraband, wrapped in a polythene bag, forensically turned out as cannabis. Upon conclusion of investigation, the petitioner was indicted before the learned Special Judge (CNS) Rawalpindi; he claimed trial that culminated into his conviction under Section 9(c) of the Control of Narcotic Substances Act, 1997; sentenced to six and half years rigorous imprisonment with a direction to pay Rs.30000/- as fine or to undergo six months simple imprisonment in lieu thereof, vide judgment dated 20.09.2017; his appeal failed before a learned Division Bench of the Lahore High Court vide impugned judgment dated 18.04.2019, *vires* whereof, are being assailed on a variety of grounds that include false implication, non-availability of witness from the public, discrepant statements

of the witnesses of recovery and absence of '*protocol*' to validate the forensic report.

2. Heard. Record perused.

3. We have found it somewhat difficult to persuade ourselves by the hypothesis of false implication. Admittedly, the petitioner is a resident of Peshawar; he had apparently no business to attend at the spot wherefrom he was unanticipatedly arrested. Similarly, it is difficult to contemplate his substitution to swap the real offender as the volume of cache being substantial could not be conceivably planted in the absence of a strong motive that does not appear the case. Absence of a witness from the public to support the prosecution despite availability, being symptomatic of public apathy towards civic responsibilities does not by itself shadow upon the credibility of official witnesses, repeatedly held us as second to none in status, found otherwise in a comfortable unison on all the relevant details relating to the arrest, search and recovery. Presence of a police picket has not been disputed by the defence itself. Criticism on forensic report Ex.PE carries no weight as it contains relevant details of the procedure followed by the analyst to confirm the narcotic character of the contraband; acquiesced by the defence during the trial. Belated arrangement by the petitioner of a well wisher to testify in his favour during the trial miserably failed to override positive evidence pointed towards his culpability on all fours. The said defence witness never joined police investigation and came up with a cock and bull story rather late in the day that fails to inspire confidence of even a most unsuspecting listener. Conclusions drawn by the courts below, on our own independent analysis, have been found by us well within the remit of law, being inconsonance with the principles of safe administration of criminal justice. Petition fails. Leave declined.

JUDGE

JUDGE

JUDGE

Islamabad, the

27th October, 2020

Not approved for reporting

Azmat/ *