

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Sajjad Ali Shah

Mr. Justice Qazi Muhammad Amin Ahmed

Criminal Petition No.147-K of 2020

(Against the judgment dated .27.08.2020 passed by the High Court of Sindh, Circuit Bench at Hyderabad in Cr. A. No.46 of 2020)

Aijaz Ali Rajpar

...Petitioner(s)

Versus

The State

...Respondent(s)

For the Petitioner(s): Mian Taj Muhammad, ASC

For the State: Mr. Hussain Khan Baloch,
Addl. Prosecutor General Sindh

Date of hearing: 09.09.2021.

ORDER

Qazi Muhammad Amin Ahmed, J.- Surprised by a contingent of Mitiari police with 1920 grams cannabis, the petitioner was sent to face trial before a learned Addl. Sessions Judge/Special Judge (CNS) at Hyderabad; he claimed trial that resulted into his conviction under section 9(c) of the Control of Narcotic Substances Act, 1997 vide judgment dated 12.11.2019; he was sentenced to 4-years 6-months with a direction for payment of fine. The High Court of Sindh first remanded the case for petitioner's re-examination under section 342 of the Code of Criminal Procedure, 1898, however, the trial Court again proceeded to convict him with the same quantum of sentence vide judgment dated 10.08.2020, upheld vide impugned judgment dated 27.08.2020, *vires* whereof, are being assailed on a number of grounds; the bottom line is that a fake recovery was foisted upon the petitioner to settle a previous score with him as his brother had moved an application under section 491 of the Code *ibid* against the local police, shortly before his unjustified arrest. Without opting to be his own witness to disprove the charge, the petitioner tendered order dated 17.11.2018 purportedly issued by an Addl. Sessions Judge on a motion made by his brother Muhammad Iqbal; the petition was dismissed vide

order of even date as a Bailiff/Raid Commissioner deputed by the Court reported the accusation as factually incorrect. The learned counsel alternately argued for reduction of sentence to the period already undergone as, according to him, after inclusion of remissions, the petitioner has served out a substantial portion of his sentence. The learned Law Officer has, however, defended the impugned judgment and also opposed reduction in sentence on the ground of its being within the remit of law.

2. Heard. Record perused.

3. A considerable quantity of the contraband rules out false imposition; reliance upon some documents suggesting an antedated botched attempt in the Court of Session, without entry in the witness-box, does not by itself support the hypothesis of suggested animosity with the police nor does it undermine the preponderance of prosecution evidence, constituting a continuous chain of events that inspiringly framed the petitioner with the charge. Both the recovery witnesses, namely, Qadir Bukhsh (PW-1) and Ali Ahmed, ASI (PW-2) have not even been suggested any past rancor harbored by the raiding party. The trial Judge, after twice appraising the evidence found the witnesses in a unison, a view confirmed by the High Court. Upon our own examination, we have found the witnesses straightforward and consistent, bracing the cross-examination without any embarrassment. Safe custody and transmission of samples accompanied by a positive forensic report clinched the indictment. We have also considered the alternate plea of reduction in the sentence; on account of actual period spent in the prison, do not feel persuaded to grant the request. Scales being in balance with a wage conscionable in circumstances, petition fails; leave declined.

Judge

Judge

Karachi, the
9th September, 2021
Azmat/-