

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Manzoor Ahmad Malik
Mr. Justice Mazhar Alam Khan Miankhel
Mr. Justice Qazi Muhammad Amin Ahmed

Criminal Appeal No.630 of 2019

*(Against the judgment dated 11.09.2018 passed
by the High Court of Sindh, Bench at Sukkur in
Crl. Jail Appeal No.D-175 of 2017)*

Gulzar

...Appellant(s)

Versus

The State

...Respondent(s)

For the Appellant(s): Mr. M. Sharif Janjua, ASC

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

Date of hearing: 28.10.2020.

JUDGMENT

Qazi Muhammad Amin Ahmed, J.- The appellant was surprised with a considerable cache of cannabis by a contingent of Khanpur Mahar Ghotki police on 27.3.2017; a Special Judge (CNA) Ghotki vide judgment dated 20.10.2017 returned him a guilty verdict; convicted under section 9(c) of the Control of Narcotic Substances Act, 1997, he was sentenced to 10 ½ years rigorous imprisonment with a direction to pay fine in the sum of Rs.50,000/- or to undergo simple imprisonment for a period of 8 months in lieu thereof, pre-trial period inclusive, upheld by a learned Division Bench of the High Court of Sindh vide impugned judgment dated 11.9.2018, assailed by the convict through a jail petition.

2. Heard. Record perused.

3. Significant quantity of contraband notwithstanding, nonetheless, we have noticed prosecution's failure to establish safe transmission to the office of Chemical Examiner; the failure has its consequences inasmuch as narcotic character of the contraband, recovery whereof is denied by the appellant throughout, was not established as Rahib Din (PW-2), examined under Public Prosecutor's

shadow, did not utter a single word to prove transmission of the entire cache, purportedly transmitted by him to the office of Chemical Examiner, in absence whereof, the appellant cannot be saddled with the culpability of possession without being conjectural, an option hardly available under the law. Criminal Appeal No.630 of 2019 is allowed; impugned judgment is set aside; the appellant is acquitted of the charge; he has already been ordered to be released, unless otherwise required to be detained, vide short order of even date.

Judge

Judge

Judge

Islamabad, the
28th October, 2020
Not approved for reporting
Azmat/-