

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Sardar Tariq Masood
Mr. Justice Syed Mansoor Ali Shah
Mr. Justice Qazi Muhammad Amin Ahmed

Criminal Petition No.762 of 2018

*(Against the judgment dated 06.06.2018 passed by the
Lahore High Court Rawalpindi Bench in CrI. A.
No.249/2013)*

Muhammad Rasool

...Petitioner(s)

Versus

The State

...Respondent(s)

For the Petitioner(s): Syed Zulfiqar Abbas Naqvi, ASC

For the State: Raja Inaam Ameen Minhas,
Ch. Ehtisham ul Haq
Special Prosecutors, ANF
M. Tariq J.D. Law, ANF

Date of Hearing 01.03.2022.

Order

Qazi Muhammad Amin Ahmed, J.- Intercepted by a contingent of Anti Narcotic Force Attock, after a hot pursuit, the petitioner was found on wheel a vehicle with a considerable cache, weighing 11.500 kilograms of cannabis, concealed in the secret cavities detected in the petrol tank; it comprised 10 packets wherefrom samples of 10 grams each, forensically confirmed the narcotic character of the contraband. Upon indictment, the petitioner claimed trial that resulted into his conviction under section 9(c) of the Control of Narcotic Substances Act, 1997, he was sentenced to imprisonment for life with a direction to pay fine, vide judgment dated 3.6.2013, upheld by the High Court vide impugned judgment dated 06.06.2018, leave to appeal wherefrom is being prayed on the grounds that forensic analysis did not qualify the "*protocols*" required for chemical examination as set-forth by the law declared in Imam Bukhsh Case. It is next argued that the contents of the parcels, statedly prepared at the time of alleged recovery, upon de-sealing in the Court, during the cross-examination, were incompatible with the details mentioned in the recovery memo prepared at the time of their seizure. Prosecution has not been able to

prove its case involving huge penalty of imprisonment for life on the strength of *proof beyond doubt*, concluded the learned counsel. The learned Law Officer has faithfully defended the impugned judgment; he argued that prosecution successfully drove home the charge by establishing each link of its case through an uninterrupted chain of events ranging from seizure to chemical analysis, conclusively confirming the contraband as being cannabis; he has next argued that given the volume of cache, surreptitiously concealed in a vehicle of value, is an event that cannot be viewed with suspicion.

2. Heard. Record perused.

3. We have examined the forensic report that contains a detailed description of analysis undertaken by the chemical examiner by mentioned each test, carried out to confirm the narcotic character of the samples. Relevant witnesses appeared to establish safe custody of the contraband as well as transmission of samples to the laboratory; the argument does not hold water.

Adverting to the plea, emphatically addressed about an apparent discrepancy suggested in the weight and texture of the contraband, made into sealed parcels at the time of their seizure, statedly mentioned in the recovery memo, noticed upon their de-sealing during the course of cross-examination on the request of defence counsel. The learned trial Judge has satisfactorily met the argument by citing sound reasons.

It is off late noted, particularly, more often than not, in cases of narcotics that an application, rather late in the day, is moved for the de-sealing of parcels to fish out a discrepancy, notwithstanding, a plea of loud denial and false implication from the day one. It is rather intriguing to comprehend as to how an accused pleading innocence, all of a sudden in the midst of the trial, prophetically learns about a change, having occurred in weight or texture of the contraband kept in safe custody; it does not require a genius to smell the rat. In the first place there is no occasion for the trial Judge, in the absence of any plausible reason, to obligingly accede to such a request for an exercise, manifestly calculated to subvert the prosecution case through methods sinister and stained. It is otherwise not possible without connivance of *Moharrir Malkhana* and the *Naib Court* to lay the ground for such a venture, therefore, it is imperative for the prosecution to keep a watchful and vigilant eye upon its unscrupulous functionaries so as to ensure that stream of justice runs pure and clean. Any attempt or act to destroy or contaminate evidence lawfully collected is a cognizable

offence in itself, commission whereof, must be visited with zero tolerance.

Fair trial is not a one-way affair; it also requires an accused and his agents, pleading innocence, to conduct themselves in a manner above board, in accordance with law; their pursuit is only justified insofar as it is in accord with the means sanctioned by law.

Upon a careful analysis of the evidence, we have not been able to persuade ourselves to take a view different than concurrently taken by the Courts below. Petition fails. Leave declined.

Judge

Judge

Judge

Islamabad, the
1st March, 2022
Azmat/-