

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Manzoor Ahmad Malik
Mr. Justice Syed Mansoor Ali Shah
Mr. Justice Qazi Muhammad Amin Ahmed

Criminal Appeal No.22-P/2014

(Against the judgment dated 8.6.2010 of the
Peshawar High Court, Peshawar passed in Cr.
Appeal No.88/2007)

State through Director ANF

...Appellant(s)

VERSUS

Parvez Khan & another

...Respondent(s)

For the Appellant(s) : Mr. Muhammad Tariq Shah, Special
Prosecutor, Anti Narcotics Force

For the Respondent(s) : N.R.

Date of Hearing : 30.04.2019

ORDER

Qazi Muhammad Amin Ahmed, J.- In a Punjab bound, Mazda truck bearing registration No.KG-5783, Parvez Khan and Ismail Khan, respondents herein were surprised by an Anti Narcotics Force contingent within the remit of Police Station Dera Ismail Khan. Upon search a huge cache of contraband comprising opium and *charas* weighing 576 kilograms was recovered from secret cavities of the vehicle. Indictment before a learned Judge Special Court (CNS), Peshawar, camp at Dera Ismail Khan, resulted into conviction under Section 9(c) of Control of Narcotic Substances Act, 1997; they were sentenced to imprisonment for life along with fine of rupees five lacs each or to undergo two years S.I. with benefit of Section 382-B of the Code of Criminal Procedure, 1898. Marwat Khan and Zaheer Shah, accomplice behind the consignment stayed away from law and stand proceeded accordingly. The vehicle was forfeited to the State. A learned division bench of Peshawar High Court acquitted the respondents from the charge on a variety of grounds, most prominent being a stated lack of conscious knowledge on part of

the respondents as the vehicle in question was registered in the name of one Muhammad Afaq, a resident of Karachi, who disowned ownership. It was further noted by the learned High Court that case property including the vehicle itself was not properly exhibited.

Leave to appeal has been granted to the extent of Parvez Khan, respondent. Learned Law Officer contends that there was no occasion for the learned High Court to acquit the respondent from the charge in the face of massive recovery of contraband that could not be conceivably foisted upon the respondent and as such his acquittal from the charge on inconsequential omissions warrants interference by this Court.

2. Huge cache of different variety of contraband notwithstanding the prosecution does not appear to have aptly prosecuted its case; concomitantly lacunas noticed by the learned High Court cannot be viewed artificial or imaginary and hypothesis of respondent lack of conscious knowledge cannot be refuted without being imprudent. The appeal fails; Order of forfeiture of the vehicle in favour of the State is kept intact. Appeal dismissed.

JUDGE

JUDGE

JUDGE

Islamabad, the
30th of April, 2019
Ghulam Raza/*