

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Umar Ata Bandial
Mr. Justice Syed Mansoor Ali Shah
Mr. Justice Qazi Muhammad Amin Ahmed

CrI. Petition No.114 of 2018

(Against the judgment dated 17.01.2018 of the High Court of Sindh, Sukkur Bench passed in Cr. Appeal No.D-99/2016)

Abdul Ghafoor

...Petitioner(s)

Versus

The State and another

...Respondent(s)

For the Petitioner(s): Mr. Muhammad Amjad Iqbal Qureshi,
ASC
Syed Rifaqat Hussain Shah, AOR

For the Respondent(s): Raja Inaam Amin Minhas,
Special Prosecutor ANF

Date of hearing: 11.10.2021.

ORDER

Qazi Muhammad Amin Ahmed, J.- The petitioner was on the wheel of an oil-tanker when intercepted by a contingent of ANF Sakkur on 04.05.2013; upon search, an huge cache of cannabis weighing 500 k.g., concealed in the secret cavities, was recovered; Aziz Ahmed co-accused, on board, was also taken to the task; upon indictment, they claimed trial that resulted into their conviction under clause (b) of section 9 of the Control of Narcotic Substances Act, 1997; they were sentenced to imprisonment for life with a direction to pay fine vide judgment dated 25.04.2016. The High Court acquitted Aziz Ahmed from the charge, however, maintained petitioner's conviction and sentence vide impugned judgment dated 17.01.2018, *vires* whereof, are being assailed primarily on the ground that prosecution hopelessly failed to drive home the charge inasmuch as none appeared to establish safe transmission of samples, secured at the time of seizure, to the office of Chemical Examiner so as to confirm the narcotic character of the contraband and, thus, there was no occasion for the trial Court as well as the High Court to assume that the seized contraband was

actually cannabis without being presumptuous, an option hardly available under the law. The learned Special Prosecutor has not been able to controvert the position taken at the bar.

2. Heard. Record perused.

3. Heinousness of the charge and huge quantity of the alleged contraband, notwithstanding, the prosecution was under a bounden responsibility to drive home the charge by proving each limb of its case that essentially included production of the witness, tasked with the responsibility of transmitting the samples to the office of Chemical Examiner. Failure is devastatingly appalling with unredeemable consequences that cast away the entire case. Petition is converted into appeal and allowed; the impugned judgment is set aside; the appellant shall be released forthwith if not required to be detained in any other case.

Copy of this judgment be transmitted to the Director General Anti Narcotic Force; he shall order a probe into the grievous lapse in prosecution of the case with a view to fix responsibility for the delinquents.

Judge

Judge

Judge

Islamabad, the
11th October, 2021
Azmat/-