

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.16-P/2013

*(against the judgment dated 17.6.2004
passed by Peshawar High Court,
Abbottabad Bench passed in Criminal
Appeal No.198/2003).*

State thr. ANF Peshawar

...Appellant(s)

VERSUS

Olufemi

...Respondent(s)

For the Appellant(s) : Mr.Muhammad Tariq Khan, ASC

For the Respondent(s) : N.R.

Date of Hearing : 29.04.2019

Judgment

Olufemi, a Nigerian national, respondent herein was surprised by contingent of Anti Narcotics Force, Haripur; he was found with 25 kilograms of heroine and sent to face trial before a learned Judge, Special Court (CNS), Peshawar, camp at Abbottabad; returned a guilty verdict; he was convicted under Section 9(c) of the Control of Narcotic Substances Act, 1997 and sentenced to imprisonment for life along side to the tune of rupees one million or five year S.I. in default thereof with benefit under Section 382-B of the Code of Criminal Procedure the learned Peshawar High Court vide impugned judgment dated 17.6.2004, however proceeded to acquit him from the charge primarily on the ground that, contraband allegedly recovered was destroyed in violation of procedure provided under Section 516 A of the Code *ibid*, vires whereof are being disputed with considerable vehemence on the ground that destruction of the contraband under magisterial supervision ruled out possibility of any foul play and thus strict non-compliance with the suggested procedure would not vitiate respondent's culpability, otherwise firmly established

through massive evidence, it is concluded by the learned standing counsel.

We would abstain to examine the vires of arguments raised before us in absence of the respondent, a Nigerian national, reported to have left Pakistan as in his absence the exercise would be merely an academic discussion without consequential impact; for yet another reason we find it inexpedient to interfere with the impugned judgment as in the event of reversal of the impugned view, a cumbersome procedure of respondent's extradition would be a process far from convenient. Much water has flown under the bridge; the contraband has since been destroyed with respondent no longer within the Realm. Appeal is dismissed.

JUDGE

JUDGE

JUDGE

Islamabad, the
29th of April, 2019
Ghulam Raza/*