

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Mazhar Alam Khan Miankhel
Mr. Justice Qazi Muhammad Amin Ahmed

Criminal Petition Nos.26-P & 27-P of 2020

(Against the order dated 14.11.2019 passed by the Peshawar High Court Peshawar passed in Cr.A. No.104-P/2019)

State through Director ANF

(in both cases_

...Petitioner(s)

Versus

Aurangzeb

(in Cr.P..26-P/2020)

Malook

(in Cr.P.27-P/2020)

...Respondent(s)

For the Petitioner(s): Mr. Muhammad Tariq,
Special Prosecutor, ANF *(in both cases)*

For the Respondent(s): N.R. *(in both cases)*

Date of hearing: 28.07.2021

ORDER

Qazi Muhammad Amin Ahmed, J.- Commonality of the issue binding Cr. P.26-P of 2020 with Cr. P.27-P of 2020, directed against Aurangzeb and Malook, respondents, respectively, necessitates a joint consideration.

The respondents were hauled up, on 28.11.2017, by a contingent of Anti-Narcotic Force Peshawar with 18.600 kilograms of methamphetamine, a synthetic psychoactive drug, designated as a contraband within the contemplation of section 8 of the Control of Narcotic Substances Act, 1997; it comprised of 34000 tablets, wrapped in packets, comprising two lots, separately secured from different points; 34 tablets from each lot were sent for forensic analysis that confirmed their narcotic character as "*Metamfetamine, Benzodiazepine, Phencyclidine And Morphine*".

2. Indicted under clause (c) of Section 9 of the Act *ibid*, respondents claimed trial that resulted into their conviction thereunder; vide judgment dated 29.01.2019, they were sentenced to imprisonment for life with a direction to pay fine in the sum of rupees one million each; the High Court, however, considering the samples for forensic

analysis as deficient in terms of law declared by this Court in *Ameer Zaib case* (PLD 2012 SC 383) altered their conviction in appeals, separately filed by the convicts, into clause (a) of the section *ibid* and reduced their sentences to the periods already undergone by them with a substantial reduction in the fine vide impugned judgment dated 14.11.2019, *vires* whereof, are being assailed on the grounds that there was no occasion for the High Court after maintaining the convictions to reduce convicts' sentences on a premise hardly sustainable in law. The learned counsel elaborated his point of view by arguing that the High Court had misdirected itself to apply the principle laid down in the *supra* case in disregard to the nature, shape and format of the contraband, uniquely integrated into small tablet form, incapable of traditional sampling suggested in the case; he next argued that the Control of Narcotic Substances Act covered a wide range of "*narcotic drugs, psychotropic substances or controlled substances*" manufactured, marketed and administered through various mediums other than usual chunks of shaped pieces and, thus, in the peculiar circumstances of case, dispatch of 34 tablets, from each lot, squarely constituted representative samples, leaving no space for a contra hypothesis. Any other interpretation or approach would defeat the legislative intent and purpose, concluded the learned Law Officer. Leave is granted to examine the validity of above position. Send for the respondents through bailable warrants in the sum of Rs.200,000/- each, returnable to the Assistant Registrar of this Court at Peshawar. Station House Officer shall execute the warrants within a fortnight.

Judge

Judge

Peshawar, the
28th July, 2021
Not approved for reporting
Azmat/-