

Supreme Court

State of Punjab Vs Surinder Rani Alias Chhindi

14 September 1999

Hon'ble Judges: K.T.Thomas, A.P.Misra

Advocates Appeared: .Narcotic Drugs and Psychotropic Substances Act,1985 ,Section 18

Case Number: 573 of 1989

K.T.THOMAS,

J.

(1) IN this case the respondent, a lady, was tried for the offence under Section 18 of the Narcotic Drugs and Psychotropic Substances Act, 1985, and the trial court acquitted her and the State sought for leave to file appeal. The High Court declined to grant the leave. It is against the said order of the High Court which is under challenge.

(2) RESPONDENT Surinder Rani was 22 years old when PW 2 Sub-Inspector Gurdip Singh intercepted her at about 10.30 a.m. on 20-8-1996 on suspicion. When her person was searched, the Sub-Inspector recovered a bag containing opium wrapped in a glazed paper. When it was weighed it was found to be 5.990 kg of opium.

(3) IT is not necessary to narrate the further facts in detail because the acquittal of the respondent cannot be disturbed on account of one crucial defect in the search alleged to have been conducted by the Sub-Inspector.

(4) SECTION 50(4) of the Act requires that "no female shall be searched by anyone excepting a female".

(5) THE said requirement in the sub-section is a mandatory and cannot be diluted even on the ground that a female was not available at the time of search. In the present case PW 2 Gurdip Singh has admitted in his examination-in-chief itself that the respondent was searched by him as then no female was present. In fact he called the assistance of two female constables. PW 2 admitted that those two female constables reached on the spot only one hour after the search was made. The search is therefore vitiated.

(6) IN view of the apparent violation of Section 50(4) of the Act the order of acquittal does not warrant any interference by the superior court. We, therefore, dismiss this appeal.

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