

Ramachandra Poddar Vs. the State

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Court : Orissa

Decided On : Jan-09-1957

Reported in : AIR1957Ori95; 23(1957)CLT300; 1957CriLJ529

Judge : Narasimham, C.J.

Acts : [Opium Act, 1878](#) - Sections 9; [Dangerous Drugs Act, 1930](#) - Sections 7(2); Dangerous Drugs (Import, Export and Transhipment) Rules, 1933 - Rules 4(1) and 11

Appeal No. : Criminal Revn. No. 345 of 1955

Appellant : Ramachandra Poddar

Respondent : The State

Advocate for Def. : Govt. Adv.

Advocate for Pet/Ap. : G.K. Misra, Adv.

Disposition : Revision allowed

Judgement :

ORDER

Narasimham, C.J.

1. This is a revision against the appellate judgment of the Sessions Judge of Cuttack maintaining the conviction and sentence passed on the petitioner, under Section 9 (a) of the Opium Act for unlawful possession of 34 bags of capsules of the poppy. The said capsules were seized from his possession on 11th November 1954 by the Excise Sub-Inspector (P. W. 4).

The seizure is admitted by the petitioner but it was urged on his behalf that the capsules were lanced and dried capsules from which the juice had been extracted and that possession of such capsules would not amount to an offence under the Opium Act. This question has been fully discussed by me in my judgment in *Kashinath Poddar v. The State*, Criminal Revn. No. 120 of 1956 : (AIR 1957 Orissa 93) (A), where I have held, after discussing the rules made under the Dangerous Drugs Act 1930, that there is no restriction on the possession of capsules of the poppy which are lanced and dried or from which the juice had been extracted.

The reasoning in that judgment would apply with full force in the present case. Some of the seized capsules were sent to the Chemical Examiner whose report showed that the capsules bore marks of incision and contained traces of opium. The presence of mere traces of opium would not suffice to show that these capsules are outside the scope of the proviso to Rule 4 (1) and Rule 11 of the Dangerous Drugs (Import, Export and Transshipment) Rules 1933, in cases where it is admitted that they have been lanced and dried or the juice has been extracted therefrom.

2. I must therefore hold that the petitioner is not guilty of the offence with which he was charged. The conviction and sentence are set aside and he is acquitted. The seized capsules of the poppy should be returned to him.