

Chander Mohan Vs. State

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Court : Delhi

Decided On : Apr-12-2005

Reported in : 120(2005)DLT154; 2005(82)DRJ264

Judge : H.R. Malhotra, J.

Acts : [Narcotic Drugs and Psychotropic Substances Act, 1985](#) - Sections 18 and 29

Appeal No. : Crl. R.P. No. 196/2004

Appellant : Chander Mohan

Respondent : State

Advocate for Def. : V.K. Malik, Adv.

Advocate for Pet/Ap. : Bharat Dubey, Adv

Disposition : Revision petition dismissed

Judgement :

H.R. Malhotra, J.

1. Aggrieved with the order of framing of charge dated 5th February, 2004 under the Provisions of Sections 18 and 29 of the [Narcotic Drugs and Psychotropic Substances Act, 1985](#), one of the petitioner viz. Chander Mohan has assailed the

same by way of filing this Criminal Revision Petition on the ground that there was no evidence against him warranting framing of charges under the said Provisions except the disclosure statement of another accused Nepal Chand which even otherwise is not admissible in evidence.

2. The petitioner and his associate Nepal Chand were charged for possessing Opium weighing 7.5 kgs. which was recovered from the house of Nepal Chand on 7-7-1996 . On receipt of secret information by Inspector Shri S.P. Kaushik that Nepal Chand and the petitioner were involved in illegal trafficking , the Inspector along with his team reached house No. 308-A Pocket -Q Dilshad Garden . Since the house was found locked therefore, the Inspector broke open the lock and recovered 7.5 kgs. of Opium from the flush of toilet.

3. The accused Nepal Chand was arrested subsequently who disclosed having indulged in illegal trafficking of drugs in associate with the petitioner Chander Mohan.

4. Besides, the Inspector had also recorded the statement of Smt. Mittali wife of Nepal Chand who had stated that on the night of 7.7.1996 her husband and the petitioner Chander Mohan had come there on the scooter and both of them hid their scooter in house No. 315 Gali No. 8 Kanti Nagar. She had further told the police that her husband and Chander Mohan were working together. Learned prosecutor while taking advantage of this statement urged before this Court that the statement of Mittali clearly goes to show that both were carrying on their illegal activities of dealing narcotic drugs. On the other hand learned counsel for the petitioner urged that though the petitioner and Nepal Chand might working together but they would not mean that they were involved in the illegal trafficking of drugs.

5. Looking to the material available on record and particularly looking to the facts that the police allegedly recovered Opium from the house of Nepal Chand after his arrest he had made a disclosure statement that he and the petitioner were responsible for possessing the Opium, it cannot be said that there is no evidence at all available with the prosecution which could even lead to the conviction of the petitioner and his associate.

6. True the Court has not to make appraisal of evidence meticulously at the stage of framing of charges but has to bear in mind that if there was material available on record indicating great suspicion about the involvement of the petitioner, the answer in this case is in the affirmative. It is not a case where the petitioner could at this stage claim discharge as there is evidence available with the prosecution warranting framing of charges against the petitioner as well. Consequently the Criminal Revision Petition is dismissed resulting in maintaining the impugned order dated 5th February 2004.

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