

Phool Kumar Vs. State (Delhi Administration)

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Court : Delhi

Decided On : May-13-1997

Reported in : 1997IVAD(Delhi)125; 1998(1)Crimes54; 68(1997)DLT155; 1997(42)DRJ261

Judge : J.K. Mehra, J.

Acts : [Narcotic Drugs and Psychotropic Substances Act, 1985](#) - Sections 57

Appeal No. : Criminal Appeal No. 62 of 1992 and Criminal Miscellaneous Appeal No. 590 of 1997

Appellant : Phool Kumar

Respondent : State (Delhi Administration)

Advocate for Pet/Ap. : Rekha Agarwal and; Akshay Bipin, Advs

Judgement :

J.K. Mehra, J.

(1) Since only a short point is involved in this case, I have proceeded to hear the main appeal.

(2) My attention has been drawn to primarily two serious violations of the mandatory requirements. Firstly that the CfsI form was not sent when the samples

were sent for analysis. Secondly, no report, as contemplated under Section 57 of Ndps Act, was ever submitted to the superior of the I.O. after the search had been completed. The fact of these lapses is confirmed from the original record and it is also not disputed by counsel for the State before me. The requirement of forwarding the Cfsl form Along with the samples has been stressed by this Court and also various other High Courts. A reference in this behalf be made to the following judgments.

- 1.Safiullah v. State, reported as 1993 Jcc 33;
- 2.Amarjit Singh v. State, reported as 1995 Jcc 91;
- 3.Shankariya v. State, reported as 1996 Jcc 136;
- 4.Abdul Ghaffar v. State, reported as 1996 Jcc 497;
- 5.Prem Singh v. State, reported as 1996 Jcc 519;
- 6.Mehndi Hassan v. State, reported as 1996 Jcc 653;
- 7.Shiv Rawat v. State, reported as 1997 Jcc 14;
- 8.Nathiya v. State, reported as 1992 (1) Crimes 537;
- 9.Pradeep Kr. v. State, reported as 1990 Chan CC69;
- 10.Lachho Qeir v. State, reported as 1990 (2) Chan CC 395;
- 11.Anoop Joshi v. State, reported as 1992 (2) C.C. C 314; and
- 12.Rajiv v. State, reported as 1992 (2) C.C. C 381.

IN the light of this and the law laid down by various authorities, there is no escape from the inference that submission of Cfsl form Along with the sample is a mandatory requirement which has not been fulfilled in the present case. @BTINDENT = Counsel for the State has also not been able to point out any evidence on record wherefrom the compliance with the provisions of Section 57 could be proved. The law in this behalf has also been spelt out by the Hon'ble

Supreme Court in the cases of State of Punjab v. Balbir Singh (SC), reported as 1994 Jcc 303 and Mahinder Kumar v. State, Panaji, Goa, reported as 1995 CrL.L.J. 2074, which has been followed by me in the cases of Richard Thomas Wrigley v. Customs & Anr. (CrL.A.149/96) decided on March 20, 1997 and Mrs. Carmel Sanchez Gracia v. Customs, New Delhi (GrL.A.51/95) decided on April 21, 1997 wherein it has been held that the provisions of Section 57 Ndps are mandatory and non-compliance thereof would vitiate the trial. There is no evidence on record to prove that the requirements of Section 57 Ndps Act were met. For this reason also, the trial of the appellant stands vitiated on account of failure of evidence in this connection. I give benefit of doubt to the appellant

Accordingly, allow appeal and acquit the appellant. The appellant be released forthwith unless and until required any other case

THIS appeal and the application are disposed of to the above terms. Dasti.

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