

Prakash Singh Vs. State

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Court : Delhi

Decided On : May-09-1994

Reported in : 1994(29)DRJ431

Judge : Jaspal Singh, J.

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

Appeal No. : Criminal Appeal No. 107 of 1992

Appellant : Prakash Singh

Respondent : State

Advocate for Pet/Ap. : R.P. Luthra and; Mukta Gupta, Advs

Judgement :

Jaspal Singh, J.

(1) In Chameli Devi v. State 1993 Jcc 293 and Mool Chand v. State (2) DL 14 it was held by this court that if the Central Forensic Science Laboratory (in short C.F.S.L.) form is neither deposited in the Malkhana nor sent to the C.F.S.L. Along with the sample, it would entitle the accused the benefit of doubt and acquittal. In Mool Chand;s case, referred to above, the learned single judge had placed reliance on two judgments namely Lachho Devi v. State 1990 (2) CCC 395 and Anoop Joshi v. State 1990 (2) CCC 314.

(2) In the present case also which relates to the recovery of Poppy had powder, though it is in evidence that the C.F.S.L. form was filled in, there is nothing on the record to show that the said Form was deposited with teh Moharrar, Malkhana or was taken to the C.F.S.L. Along with the sample parcel. In this respect reference may particularly be made to the statement of Head Constable Chander Pal Singh (Public Witness - 3) who at the relevant time was posted as Moharrar malkhana and to the statement of Constable Vijender Singh, who has allegedly taken the sample parcel to the C.F.S.L. None of them has deposed about the Form having been deposited in the Malkhana or having been taken to the C.F.S.L. Since the dictum of the Judgments referred to above is clear, the appellant deserves the benefit of doubt and acquittal on this short ground alone.

(3) It is contended by the learned counsel for the State that as the seal after use had been handed over to a witness from the public this is itself should be taken as sufficient safeguard. I wish it could be so. Undoubtedly the prosecution has produced one Amrit Lal, a witness from the public and it is stated that the seal after use had been handed over to him, it appears from the evidence that this gentleman is a stock witness and is at the beck and call of the police. His statement fails to inspire any confidence.

(4) The appeal, for the reasons recorded above, is allowed, the appellant is given the benefit of doubt and consequently stands acquitted of the charge. He may be released forth with if not required in any other case.

(5) Copy of the order be sent to the Superintendent, Central Jail for information.