

State of Rajasthan Vs. Dhonkal

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Court : Rajasthan

Decided On : Oct-09-1987

Reported in : 1988WLN(UC)96

Judge : Sobhag Mal Jain, J.

Appeal No. : S.B. Criminal Appeal No. 449 of 1978

Appellant : State of Rajasthan

Respondent : Dhonkal

Disposition : Appeal dismissed

Judgement :

Sobhag Mal Jain, J.

1. The appellant was tried for the offence under Section 9 of the Opium Act for being in possession of 60 gms. opium on January 25, 1976. The Judicial Magistrate, Jodhpur after trial acquitted him on the ground that the prosecution failed to establish that the sample which was taken from possession of the accused was opium. This appeal is directed against the judgment of the Judicial Magistrate acquitting the accused.

2. I have heard learned Public Prosecutor. The evidence of Pepsingh who deposed that he took the sample to the Chemical Examiner in a sealed condition

is discrepant, in as much as, while Pepsingh states that he delivered the sample to the chemical examiner in a sealed condition on May 8, 1976, the report of the chemical examiner shows that the sample was received in his office on February 25, 1976. Obviously, therefore, the evidence of Pep Singh cannot be accepted. There is no other evidence on record to show that the sample which was examined by the chemical examiner was the same which was taken from the material found in possession of the accused. The acquittal of the accused recorded by the Judicial Magistrate, Jodhpur does not call for interference.

3. Accordingly, there is no force in this appeal and the same is dismissed.

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