

A

STATE OF RAJASTHAN

v.

BABU LAL

(Civil Appeal No. 859 of 2004)

B

APRIL 21, 2009

**[DR. ARIJIT PASAYAT AND ASOK KUMAR
GANGULY, JJ.]**

C

Narcotics Drugs and Psychotropic Substances Act, 1985 – s.42(2) – Compliance of mandatory requirement under – Possession of huge quantity of brown sugar – Conviction u/s. 8/11 – Set aside by High Court for non-compliance of requirement u/s. 42(2) – Interference with – Held: Not called for – High Court referred to various factual aspects to come to the said conclusion – Document required to prove receipt of oral information not brought on record.

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CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 859 of 2004.

E

From the Judgment and Order dated 17.10.2003 the High Court of Judicature for Rajasthan at Jodhpur, in S.B. Criminal Appeal No. 707/2002.

Milind Kumar, Advocate for the Appellant.

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Ashok Kmar Singh, Advocate for the Respondent.

The Judgment of the Court was delivered by

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DR. ARIJIT PASAYAT, J. 1: Challenge in this appeal is to the judgment of acquittal passed by a learned Single Judge of the Rajasthan High Court, Jodhpur Bench. The respondent was convicted for offence punishable under Section 8/21 of the Narcotics Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as 'the Act'). The respondent was found

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in possession of a huge quantity of Brown Sugar and the Trial Court held that all the requisite procedure was followed and, therefore, according to the Trial Court, the prosecution version was established. The High Court found that there was non-compliance with the requirement of Section 42(2) of the Act.

2. Various factual aspects have been highlighted by the High Court to come to this conclusion.

3. Learned counsel for the State submitted that some minor variations, if any, in not following the the procedure would not render the conviction bad. The learned counsel for the respondent on the other hand supported the judgment of the High Court.

4. We find that the High Court after referring to the various factual aspects came to the conclusion that provisions of Section 42(2) were not complied with. The documents required to prove the receipt of oral information were not brought on record. That being so, we are not inclined to interfere with the judgment of the High Court. The appeal fails and it is dismissed accordingly.

N.J.

Appeal dismissed.