

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 37 OF 2006

STATE OF RAJASTHAN

.....

APPELLANT

VERSUS

BHOPA RAM

.....

RESPONDENT

O O R D E R

1. We have heard learned counsel for the parties.
2. This appeal against acquittal arises from the judgment of the High Court in a prosecution under Section 8/18 of the Narcotic Drugs and Psychotropic Substances Act. The trial court, relying on the evidence of P.Ws. 4, 5, 11 and 12, convicted the respondent and sentenced him to undergo rigorous imprisonment for 10 years and to a fine of Rs. 1 lakh and in default thereof to further undergo simple imprisonment for a period of six months. The judgment of the trial court has been reversed in appeal. The High Court has recorded a positive finding that the prosecution story given in Exhibit P2 the notice issued under Section 50 of the Act was a concoction. In other words, the High

Court has doubted the very factum of the recovery. Dr. Manish Singhvi, the learned Additional Advocate General for the State has, however, argued that in the facts of the case, Section 50 was not applicable. This submission is undoubtedly correct insofar as the import of the provision is concerned but the High Court has on a consideration of the evidence held that as Exhibit P2 had been apparently created after the recovery had been made and there appeared to be some doubt as regards the recovery itself casting a doubt on the conduct of the investigation. We are thus not inclined to interfere in this matter.

We, accordingly, dismiss the appeal.

J

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[HARJIT SINGH BEDI]

J

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[CHANDRAMAULI KR. PRASAD]

NEW DELHI
OCTOBER 26, 2010.