
(2013) 09 PAT CK 0047

In the Patna High Court

Case No : Criminal Appeal (DB) No. 1146 of 2010

Chhote Lal Rai

APPELLANT

Vs

The Union of India

RESPONDENT

Date of Decision : 23-09-2013

Acts Referred:

Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS) — Section 20, 20(b)(ii) (c), 25, 29, 41(2)

Citation : (2013) 09 PAT CK 0047

Hon'ble Judges : V.N. Sinha, J;Rajendra Kumar Mishra, J

Bench : Division Bench

Advocate : Brahma Deo Prasad and Mr. Rakesh Kumar, for the Appellant; D. Surendra, for the Respondent

Final Decision : Allowed

Judgement

V.N. Sinha, J.—This appeal is directed against the Judgment/Order dated 20.7.2010/29.7.2010, whereunder the Additional Sessions Judge-VII, Patna, has convicted the sole appellant for the offence under Sections 20(b)(ii)(c), 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter referred to as "the Act") in Special Case No. 26 of 2006 and sentenced him to undergo rigorous imprisonment for 15 years, 15 years, 15 years with direction to pay fine of Rs. 1 lac 50 thousands each under the three counts respectively. In default of payment of fine, appellant has been directed to undergo further rigorous imprisonment for three years under each count. The sentences, however, has been directed to run concurrently. Prosecution case as set out in the complaint filed by the Intelligence Officer, Salman Imtiyaz Hussaini (P.W. 2) is that acting upon specific information, Daya Shankar Singh (P.W. 4), Intelligence Officer, Directorate of Revenue Intelligence, Regional Unit, Patna, reached Reliance Petrol Pump at Chakia on 20.5.2006 at 4 A.M. for intercepting the truck bearing Registration No. BR-1G-4689 arranged the witnesses. Having seen the truck coming from Raxaul side P.W. 4 and other members of the team signaled the driver of the truck to stop but he speeded up the truck and began driving the

truck dangerously. The team chased the truck for about 15-20 kilometers and then succeeded in stopping the vehicle. The driver jumped out of the vehicle but was apprehended. On enquiry, driver revealed his name and address as Sri Chhote Lal Rai (appellant), son of Shri Nand Lal Rai, resident of Mithapur, Gaya Line, Patna. The truck was found covered with tarpaulin. During enquiry, the driver claimed the truck to be empty. On further enquiry as to why did he ignore the signal to stop and began driving the truck dangerously, the driver stated that he thought anti social elements were chasing him. The team members asked the driver to remove tarpaulin cover from the truck and found number of rectangular shaped bundle wrapped in plastic sheet kept in the body of the truck. After cutting one bundle, it was found that Ganja was packed in the bundle. During inspection of the truck, passersby began to collect at the spot. The driver then requested the officers to carry out detailed search and to complete other formalities in a safe place for his security, safety. The truck, driver, the two independent witnesses came to the Directorate of Revenue Intelligence, Regional Unit, Patna, on 20.5.2006 around 11 A.M.. After observing the formalities the tarpaulin of the truck bearing Registration No. BR-1G-4689 was removed before the independent witnesses and 23 bundles of Ganja was recovered, weighed and found to be 370 Kilograms (Net). The samples drawn, recovered Ganja sealed with the official seal of Directorate of Revenue Intelligence before the independent witnesses. According to the complainant, the then Intelligence Officer, DRI, Regional Unit, Patna, Daya Shankar Singh (P.W. 4) seized the recovered 370 Kilograms (Net) Ganja valued at Rs. 7,40,000/-, the vehicle bearing Registration No. BR-1G-4689 valued at Rs. 3,50,000/- used for transportation of Ganja in exercise of power conferred u/s 43(a) of the Act having reason to believe that it is liable for confiscation. Appellant, the owner of the vehicle, was driving the vehicle in which the recovered Ganja was concealed to his full knowledge as he agreed to transport the same from Semra to Jarua for lust of money and admitted his guilt. Appellant, therefore, was arrested at 11.30 hours on 21.5.2006 by Daya Shankar Singh (P.W. 4) in exercise of power conferred u/s 43(b) of the Act and was produced before the Sessions Judge on 21.5.2006 and was remanded to judicial custody on 21.5.2006. The samples drawn was sent to the Deputy Chief Chemist, Government Opium and Alkaloid Works, Gazipur (U.P.), who vide letter F. No. 1/Research/2006-07/3982 dated 8/10.07.2006 reported that on the basis of the macroscopic, microscopic and chromatographic examinations it was concluded that sample under reference is Ganja (cannabis) within the meaning of the Act. In the light of the aforesaid facts, material collected during investigation, Intelligence Officer recommended prosecution of the appellant for the offence under Sections 20, 25 and 29 of the Act.

2. From perusal of the complaint, it would appear that in the complaint, the complainant has named the witnesses, five in number, namely, D.S. Singh, Intelligence Officer, DRI, Patna, Kamal Singh, Head Havildar, DRI, Muzaffarpur, Indradeo, Head Havildar, DRI, Muzaffarpur, Raj Kumar, son of Sri Harkhen Rai,

Gudri Bazar, Bara Chakia, East Champaran and Satyendra Singh, son of Sri Ram Chandra Singh, village-Majhar, P.S. Pakridayal, East Champaran.

3. In the light of the complaint, the District and Sessions Judge, took cognizance of the offence under order dated 3.11.2006 and proceeded with the trial.

4. During trial, prosecution examined 9 witnesses, 3 out of the 5 witnesses named in the complaint petition, i.e., D.S. Singh, Intelligence Officer, DRI, Patna (P.W. 4). Kamal Singh, Havildar, DRI, Muzaffarpur (P.W. 1), Indradeo, Havildar, DRI, Muzaffarpur (P.W. 3), the complainant, Salman Imtiyaz Hussaini (P.W. 2), Anil Kiro, Godown Incharge, DRI, Patna (P.W. 5), Dharmesh Kumar Srivastava, Intelligence Officer, DRI, Patna (P.W. 6), Krishna Kumar Sahay, Intelligence Officer, DRI, Patna (P.W. 7), Prem Chand Anal, Judicial Magistrate (P.W. 8), who certified the seized Ganja on 16.11.2006 vide Ext. 11, Ramesh Kumar Raman (P.W. 9) Assistant Director serving in the office of the DRI, Patna on 20, 21.05.2006. It would, thus, appear that during trial prosecution did not examine witness Nos. 4 and 5 of the complaint, i.e., Raj Kumar and Satyendra Singh, in whose presence the truck in question was ambushed, apprehended at Chakia Petrol Pump near Motipur, brought to the office of DRI, Patna, sample taken, seizure of Ganja, truck effected.

5. The defence has also examined 20 witnesses. At the instance of the court one Sri Sanjay Kumar Srivastava, Chemical Assistant, serving in the office of the General Manager, Government Opium and Alkaloid Works, Gazipur (U.P.) has been examined to prove the signatures of Sri B.N. Pandey, Assistant Chemical Examiner under whose covering letter (Ext. 12), the report of the Chemical Examiner dated 7.7.2006 was received.

6. Before we proceed to consider the submission of the counsel for the parties, it is necessary to notice the salient features of the case.

7. It appears that officers of DRI, Regional Unit, Patna, received secret information on 20.5.2006 that a truck bearing Registration No. BR-1G-4689 is coming from Raxaul side with contraband and to apprehend the said truck reached Reliance Petrol Pump at Chakia on 20.5.2006. In the morning of 21.5.2006, the said truck was seen coming from the Raxaul side. The officers signaled the truck to stop. The driver instead of stopping the truck speeded up and drove dangerously. The officers after hot chase for a distance of 15 Kilometers could overtake, stop the vehicle near Motipur. The driver tried to escape but was apprehended. Preliminary investigation revealed that the truck was loaded with Ganja. At the request of the driver-appellant, truck alongwith the witnesses, in whose presence Ganja was found concealed in the truck, was brought to the DRI office, Patna. In presence of the witnesses including the driver appellant, the Ganja in 23 bundles was seized, weighed and samples drawn in three packets of 25 grams, A-1, A-2, A-3. Having drawn sample, seized the Ganja, a Seizure Memo (Ext. 4) Panchnama (Ext. 5), was reduced in writing as also statement of driver (Ext. 6) taken. In the light of the Seizure Memo,

Panchnama and the statement of the driver, the driver-appellant was produced before the Sessions Judge on 21.5.2006 vide application dated 21.5.2006 for securing his judicial remand. The application is at pages 1-2 of the paper-book. From perusal of remand application dated 21.5.2006, it appears that Panchnama, Seizure Memo, statement of the appellant as also his Arrest Memo is annexed with the same and on the strength of these documents, request was made not only to remand the appellant in judicial custody but also to depute a Magistrate for the purpose of certification of the seized goods, drawl of samples and certification of the seized vehicle. It appears on the basis of the application dated 21.5.2006, the appellant was remanded to jail custody but at the time of his remand to judicial custody, the prosecution did not press the request for deputation of the Magistrate for certification of the seized goods, drawl of samples and certification of the seized vehicle. Such prayer was not made by the prosecution even on subsequent dates until 2.8.2006 when a fresh petition was filed for such purpose, which was allowed by the Sessions Judge under order dated 02.08.2006. It, however, appears from Ext. 1, covering letter dated 8.7.2006, whereunder report from the Government Opium and Alkaloid Works, Gazipur (U.P.), bearing report No. 47, file No. 01/Research/06-07 dated 7.7.2006 was forwarded, received, that the samples drawn in the present case were sent for examination under DRI File No. 718(ii) 34-PRU/06/06/93 dated 22.5.2006. It is, thus, evident that the sample in the present case was drawn, sent to the laboratory for testing without certification by the Magistrate.

8. Having taken note of the aforesaid salient features of the case, we proceed to consider the prosecution evidence.

9. P.W. 4, Daya Shankar Singh, served as Intelligence Officer on 20.5.2006 in the office of the Directorate Revenue Intelligence, Regional Unit, Patna. He has stated in his evidence that on 20.05.2006 he and the Deputy Director, R.K. Raman (P.W. 9) received secret information that Ganja covered with tarpaulin is being carried in truck bearing Registration No. BR-1G-4689 from Semra, Motihari to Jarua Hazipur. For taking action in the light of the said information, the witness alongwith Kamal Singh, Havildar (P.W. 1), Indradeo, Havildar, (P.W. 3) reached Chakia Reliance Petrol Pump on 20.5.2006 at about 2 A.M., requested two gentlemen present at the petrol pump at that time to become witness of search and seizure. Having arranged the witnesses, P.W. 4, and other team members kept waiting for the truck to pass. After sometime, the truck was seen coming, was signaled to stop but the driver speeded up the vehicle, after hot chase, the vehicle overtaken, apprehended near Motipur. The driver of the truck tried to escape but was apprehended, who disclosed his name as Chhote Lal Rai (appellant). After removing the tarpaulin, it was found that Ganja in 23 bundles was found concealed in the truck. During preliminary investigation passersby began to collect then driver requested P.W. 4 to complete further investigation, other formalities at a safe place. In the light of the request of the driver, the truck was brought to safe place, i.e., the DRI office, Patna. At the DRI office, Patna, personal search of the driver was made, after observing the safeguards u/

s 50 of the Act as the driver himself agreed for being searched by the members of the inspecting team. Having taken the personal search of the driver, the vehicle was also searched and it was found 23 bundles of Ganja concealed wrapped with plastic sheet. After weighment of the seized Ganja, weighed 370 Kilograms (Net). Three samples each of 25 grams A-1, A-2, A-3 was also drawn after mixing the Ganja. Having drawn the sample, the remaining Ganja was kept in 12 bags and sealed in presence of the witnesses, appellant, and obtained their signatures on a paper, which was also pasted with the seized articles. This witness has proved the Seizure Memo (Ext. 4), Panchnama (Ext. 5), statement of the accused (Ext. 6). Appellant-accused was arrested on 21.5.2006, produced before the court for his judicial remand with request to the court to continue the investigation. In paragraph-12, the witness has stated that sample, A-1, was sent for chemical examination to Gazipur (U.P.) with covering letter of Deputy Director, DRI, Patna. The report received from the laboratory in the office of the DRI, Patna, under covering letter of the Joint Director and the report of the Chemical Examiner is marked as Exts. 2, 1 respectively. The witness further stated that from the report, it is evident that sample sent to the laboratory for test has been confirmed to be Ganja. In October, 2006, witness was transferred from the office of DRI, Patna, to the office of Narcotic Commissioner, Central Narcotic Bureau, Gwalior. Further investigation however continued through Investigating Officer, Salman Imtiyaz Hussaini (P.W. 2) and he filed complaint in court. The witness has identified the appellant in dock. In paragraph-38 question was put to the witness as to why did he bring the seized truck, Ganja to Patna, 120 kilometers away from the place of seizure though he was himself armed with revolver and was accompanied by 2 Hawildars and two witnesses. In answer to the said question, the witness replied that according to him his office would be a safe place, as such, he brought the truck to Patna. In the light of the answer noted in paragraph-38, witness was put another question in paragraph-39, whether DRI Office, Muzaffarpur, is not a safe place. In response to the said question, the witness submitted that because of dearth of staff in the said office, the place was not safe. In paragraph-100, the witness denied the suggestion that sample was sent for chemical examination to Government Laboratory, Gazipur (U.P.) without being certified. He, however, in the same paragraph confirmed that the photograph of the seized Ganja was not taken and further stated that until he continued with the investigation (about five months) certification of the inventory prepared by him was not made. In the same paragraph, he further stated that he is not aware as to when seized Ganja in 12 gunny bags was sent to the custom godown. He further stated in the same paragraph that until he continued with the investigation, the seized Ganja was not made exhibit in court. In paragraph-101, the witness admitted that he sent the sample for examination to Gazipur Government Laboratory on 22.5.2006 without certification by the Magistrate. In paragraph-103, the witness admitted that he did not seek clarification from the Gazipur Laboratory as to how the sample containing 25 grams of Ganja sent by him became 13.550 grams in the laboratory.

10. P.W. 2, Salman Imtiyaz Hussaini, also served as Intelligence Officer in the office of DRI, Patna, on 20.5.2006 and took over the investigation of the present case on 10.10.2006 after transfer of P.W. 4. He also confirmed that secret information was received by R.K. Raman (P.W. 9), the then Deputy Director and P.W. 4, D.S. Singh, the then Intelligence Officer. In paragraph-2, he further stated that as per the direction of the Deputy Director, a team was constituted and proceeded for Chakia. Members of the team having seen the truck bearing Registration No. BR-1G-4689 coming signaled the truck to stop but the driver ignored the signal and speeded up the vehicle. After chase of 15/16 kilometers, the truck was over taken and made to stop. The driver tried to escape but was apprehended by the members of the team. On interrogation, driver indicated his name as Chhote Lal Rai, the appellant. He further confirmed the story set forth by P.W. 4 that the truck was brought to Patna office and then sample drawn, seizure made, driver arrested and other formalities completed. In paragraph-10, the witness admitted that certification of the seized Ganja was made on 16.11.2006 by the Judicial Magistrate, Sri P.C. Anal (P.W. 8). P.W. 2 has further proved the seizure memo (Ext. 4) over which signature of not only the appellant but also of the two witnesses, namely, Raj Kumar and Satyendra Singh including the Intelligence Officer, P.W. 4 is available. In paragraph-14, he has confirmed that he filed the present complaint petition which runs into six pages and in the last page of the complaint, he has put his signature. This witness has further proved the complaint petition Ext. 9. In paragraph-15 of the cross examination, the witness confirmed that he was not the member of the raiding team and who constituted the raiding team can be disclosed either by R.K. Raman (P.W. 9) or D.S. Singh (P.W. 4). In paragraph-16, P.W. 2 confirmed that the members of the raiding team were Kamal Singh (P.W. 1), Indradeo (P.W. 3) and D.S. Singh (P.W. 4). P.W. 2, however, is not aware as to when the members of the raiding team proceeded for raid. The members of the raiding team were D.S. Singh of DRI office, Patna, Kamal Singh and Indradeo, Hawildars of DRI office, Muzaffarpur. In same paragraph, this witness also confirmed that he is not aware as to when the raiding team was constituted.

11. P.W. 9, Ramesh Kumar Raman, served as Deputy Director, Directorate of Revenue Intelligence, Patna, on 19.5.2006 and received information in the same night that Ganja is being transported on truck bearing Registration No. BR-1G-4689 and after having apprehended the Ganja, reward be given to the informer. In paragraph-2, the witness stated that after receiving information, he discussed the matter and decided to ask his officers to intercept the truck. At the time of receipt of information, D.S. Singh (P.W. 4), who was engaged in field surveillance in the same area, was telephonically informed. Simultaneously, Kamal Singh (P.W. 1) and Indradeo (P.W. 3) of DRI office, Muzaffarpur, were instructed to approach and assist D.S. Singh. In further examination-in-chief, the witness has supported the story as set out by P.W. 4. In the entire examination-in-chief, the witness has not referred to the order which he drew after receipt of secret information as is required u/s 41(2) of the Act.

12. P.W. 8, Prem Chand Anal, is the Judicial Magistrate, who certified the seized article on 16.11.2006 in presence of P.W. 6, Dharmesh Kumar Srivastava, Inspector, Central Excise and Custom, Patna, and P.W. 5, Anil Kiro, Godown Incharge of the same Godown, in which the seized article was kept.

13. P.W. 7, Krishna Kumar Sahay also served as Senior Intelligence Officer on 20.5.2006 and according to the witness seizure of Ganja as also of the truck bearing Registration No. BR-1G-4689 was made in the Patna DRI office on 21.5.2006.

14. P.W. 1, Kamal Singh and P.W. 3, Indradeo served as Hawildars in the DRI office, Muzaffarpur on 20.5.2006. In the light of the instruction received from P.W. 9, they assisted P.W. 4 in apprehending, seizure of Ganja concealed in the body of the truck bearing Registration No. BR-1G-4689 as also the truck.

15. Having considered the evidence, now, we proceed to note the arguments made by the counsel for the appellant. It is submitted that after receipt of secret information on 20.05.2006 by P.Ws. 4 and 9, a team comprising of P.Ws. 3 and 1 was constituted by P.W. 9 but neither the written order constituting the team was produced nor the same has been referred to in the evidence and thereby, it is submitted that Section 41(2) of the Act, which enjoins upon the competent officer to draw the order has been violated in the present case, creating doubt about the factum of receipt of the secret information by P.W. 9, 4 and subsequent search, seizure of Ganja from the truck in question.

16. Learned counsel next submitted that there is yet another circumstance raising doubt about the entire prosecution story as P.W. 4, after search, seizure of Ganja, drew sample for dispatch to Government Laboratory, Gazipur for its examination, did not obtain sample in presence of the Magistrate as is required by sub-section 2(c) of Section 52A of the Act and thereby there is doubt about the genuineness of the sample taken, sent for examination to the Government Laboratory. In this connection, learned counsel placed reliance on the Division Bench Judgment of Calcutta High Court in the case of Munna Nai v. The State {1997(4) Cri LJ 4553}.

17. Learned counsel further submitted that the Pancha witnesses in whose presence sample was drawn having not been examined and have been found to be traceless by the Postal Peon when he went to serve summons for their appearance in court, the very prosecution case that the truck driven by the appellant was apprehended, searched and Ganja seized in presence of Pancha witnesses becomes highly doubtful.

18. Learned counsel further pointed out with reference to the complaint petition as also the evidence of P.Ws. 4 and 2 that three samples each consisting of 25 grams of the seized article was drawn on 21.05.2006 in presence of two independent witnesses as also the appellant and one such sample was sent for testing to the Government Laboratory, Gazipur (U.P.), from the test report dated 7.7.2006 (Ext. 2), however, it is evident that sample received was duly sealed,

weight whereof was 13.550 grams the chance of the sample sent to the test laboratory having been tampered cannot be ruled out as at the time of certification seized Ganja made by the Judicial Magistrate on 16.11.2006 the seized article weighed 370 Kilograms. According to the learned counsel, total quantity of the seized article having not dried at the time of certification, there was no reason for the sample consisting of 25 grams taken on 21.5.2006 and sent to the laboratory on 22.5.2006 to have dried up on the date of its receipt and test in the laboratory, i.e., 7.7.2006, which is indicative of tempering, pilferage of samples drawn by P.W. 4 and before it was received in the laboratory for test on 7.7.2006.

19. Learned counsel for the appellant with reference to information furnished u/s 50 of the Act vide notice dated 20.05.2006 (Ext. 7) submitted that there has been gross violation of Section 50 of the Act as after being informed by P.W. 4 vide information notice (Ext. 7) appellant indicated his willingness to be searched either before the Magistrate, Gazetted Officer, but the search and seizure was conducted by P.W. 4 who is neither Gazetted Officer nor Magistrate which is evident from both information notice (Ext. 7) issued u/s 50 of the Act and the seizure memo (Ext. 4) thereby provisions of Section 50 of the Act having been violated, appellant is required to be acquitted.

20. Learned counsel for the Department has supported the Judgment and with reference to the provisions of the Act, Notification dated 29.5.1989 and the Standing Order No. 1/89 dated 13.6.1989 submitted that even though the Pancha witnesses have not been traced and examined to support the search, seizure of the incriminating articles, Ganja, from the truck of the appellant, his conviction is required to be maintained in the light of the consistent evidence of the official witnesses, i.e., P.Ws. 4, 2 and two Havildars, i.e., P.Ws. 1 and 3.

21. Having considered the prosecution case as set out in the complaint petition (Ext. 9), the evidence of P.Ws. 4, 2, 1 and 3 as also the other documents including the Panchnama and the forwarding Memo of the appellant dated 21.5.2006, it is evident that after receipt of confidential information on 20.05.2006 that Ganja is being illegally transported in truck bearing Registration No. BR-1G-4689, a surveillance team comprising of P.Ws. 4, 1 and 3 was constituted by P.W. 9, who instructed P.Ws. 1 and 3 to join P.W. 4, as P.W. 4 was already in the area to contact him at Chakia Petrol Pump. The team arranged for the two witnesses at the pump saw the truck in question coming, signaled the driver of the truck to stop but appellant not only speeded up the vehicle but also drove the truck dangerously. After hot chase, the truck was apprehended and brought to Patna on 20.5.2006 at about 11 A.M. and then searched, article seized by P.W. 4. The order constituting the team by P.W. 9, however, has neither been referred to in the evidence nor produced, admitted in evidence and marked exhibit. The articles said to be incriminating Ganja, weighing 370 Kilograms was searched, seized by P.W. 4 on 21.05.2006 in presence of two Pancha witnesses, namely, Raj Kumar, Satyendra Singh, also brought from the place of

apprehension of the truck, i.e., Motipur to Patna in the office of Deputy Director. P.W. 4 at the relevant time served as Intelligence Officer. In view of the contents of information notice dated 20.05.2006 (Ext. 7) issued u/s 50 of the Act, the willingness indicated by the appellant, he should have been searched either before the Magistrate or the Gazetted Officer. In terms of sub-section 2 of Section 52 of the Act, P.W. 4 should have forwarded the seized article and the person arrested to the Officer authorized u/s 53 of the Act but it appears that having drawn the sample in presence of the Pancha witnesses, P.W. 4 himself forwarded the appellant to the District and Sessions Judge, Civil Court, Patna under forwarding letter dated 21.5.2006 with a request to the District and Sessions Judge to depute a Magistrate for the purpose of certifying the seized goods, drawl of samples and certification of seized vehicles with reference to Section 52(A) of the Act. On 21.5.2006, appellant was remanded to jail custody but the orders as required for certification, drawl of sample in presence of Magistrate was not obtained on 21.5.2006. Order for certification was ultimately passed on 2.8.2006 by filing a fresh petition. The three samples of 25 grams each having been drawn on 21.5.2006 was sent for testing to the Government Laboratory, Gazipur (U.P.) on 22.05.2008. From the report received from the Government Laboratory (Ext. 9), it is evident that the test sample comprised of 13.555 grams of the seized article, which is indicative of the fact that after taking sample, there has been tampering with the same as there is no reason for the sample to have dried up to the tune of 11.50 grams. Our aforesaid finding is based on the certification made by the Judicial Magistrate (P.W. 8) dated 16.5.2006 (Ext. A), whereunder it was found by the learned Magistrate that the seized article weighed 370 Kilograms on the date of certification, i.e., 16.11.2006 even after passage of more than five months from the date of seizure but the sample, which was sent for testing was found to have reduced in weight almost by 1/2 within one and half months. The two Pancha witnesses, namely, Raj Kumar and Satyendra Singh, in whose presence search, seizure and drawl of sample was made were summoned by the court but the summons returned unserved as would appear from the order dated 17.8.2009 and 11.9.2009. Close perusal of the postal report, orders passed thereon would further indicate that the two witnesses were traceless, which is creating doubt about the story of chase, apprehension of the truck and then search, seizure and drawl of samples by P.W. 4. P.W. 9, the Deputy Director, has not been shown as a witness in the complaint yet he was examined in court but even in the evidence he has not stated that the arrested person, appellant and seized articles were forwarded to him as is required under sub-section 3(b) of Section 52 of the Act for disposal of the person arrested and the articles seized. In view of our discussions made above, we are of the view that the conviction of the appellant is not in accordance with law, which is, accordingly, set aside and the appeal is allowed. The appellant is directed to be released forthwith, if not wanted in any other case.