
(2016) 01 P&H CK 0362
In the Punjab And Haryana At Chandigarh
Case No : CWP No. 803 of 2014 (O&M).

Rano	Vs	APPELLANT
The Appellate Tribunal and Others		RESPONDENT

Date of Decision : 22-01-2016

Acts Referred:

Constitution of India, 1950 — Article 226
Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS) — Section 68F(2)

Citation : (2016) 2 PLR 599 : (2016) 4 RCRCriminal 669

Hon'ble Judges : Rajesh Bindal, J.

Bench : Single Bench

Advocate : Ashok Giri, Advocate, for the Appellant; Nilesh Bhardwaj, Deputy Advocate General, Punjab and Karminster Singh, Advocate, for the Respondent

Final Decision : Dismissed

Judgement

Rajesh Bindal, J. - The present petition has been filed seeking quashing of order dated 28.6.2007 (Annexure P-1) passed under Section 68F(2) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the NDPS Act"), freezing the property mentioned in the order and order dated 27.7.2007 (Annexure P-2), vide which the freezing order was confirmed. Challenge has also been made to order dated 18.11.2013 (Annexure P-5), passed by Appellate Tribunal for forfeited Property, New Delhi, vide which the appeal filed by the petitioner against the order of freezing the property was dismissed being barred by limitation as the appeal was filed against the order dated 27.7.2007 freezing the property, on 21.6.2013.

2. Learned counsel for the petitioner submitted that there were three FIRs against the petitioner, as have been mentioned in the order dated 27.7.2007 (Annexure P-2), out of which, in two she was acquitted and in third, she was convicted. The case set up by the State is that the poppy husk was sold by the petitioner and out of the sale proceeds, the house was purchased. In fact, the property was owned by the husband of the petitioner, which was purchased in

the year 2003. No notice was issued to the husband of the petitioner, who is the owner of the property. Hence, the order freezing the property of the petitioner deserves to be set aside. In support of his arguments, reliance was placed upon judgment of this Court in Union of India and another v. Gurmail Singh and others 2015 (3) R.C.R. (Criminal) 323.

3. Learned counsel for Union of India submitted that it is not only the petitioner but the entire family of the petitioner is involved in the drug business. The notice was issued to the husband of the petitioner as well, which was duly served upon him on 16.7.2007, however, he did not respond. It was further submitted that though the petitioner has been acquitted in two FIRs, however, she has been convicted in third case. It is so stated in reply to para no. 13(e) of the writ petition to which no replication has been filed by her.

4. Learned counsel for the State submitted that there are number of cases registered against the petitioner, her husband, Darshan Lal, son Onkar Singh Lucky, starting from the year 1983 onwards. Even after the FIRs, mentioned in the freezing order, the family was involved in further cases as well. He furnished a list of 10 cases registered against the petitioner, out of which in 4 she was convicted, in 3 cases, the trial was still pending and in 3 cases she was acquitted. The husband of the petitioner Darshan Lal was involved in 16 cases, starting from the year 1983 onwards. One case bearing FIR No. 304/2014 under Sections 22/61/85 of the NDPS Act was registered against her son Onkar Singh Lucky at Police Station Nakodar, District Jalandhar. Seeing the conduct of the entire family, there is no error in the order freezing the property of the petitioner.

5. Heard learned counsel for the parties and perused the paper book.

6. The order freezing the property, mentioned three FIRs, which are as under :-

Sr. No. FIR Number and Date Under Section Police Station

1 182 dated 28.10.1993 15 of NDPS Act Nakodar

2 56 dated 2.4.2005 15 of NDPS Act Nakodar

3 73 dated 24.3.2007 15 of NDPS Act Nakodar

7. It is not in dispute that in FIR No. 73 dated 24.3.2007, registered under Section 15 of the NDPS Act at Police Station Nakodar, the petitioner was convicted vide judgment dated 20.11.2009. In total, the petitioner was involved in following 10 cases under the NDPS Act, in terms of the list furnished by learned counsel for the State:-

Sr. No. FIR number/year Under Section Police Station and District Status

1. 182/1993 15/61/85 NDPS Act Nakodar/Jalandhar Acquittal

2. 111/2000 15/61/85 NDPS Act Nakodar/Jalandhar Acquittal

3. 56/2005 15/61/85 NDPS Act Nakodar/Jalandhar Acquittal

4. 73/2007 15/61/85 NDPS Act Nakodar/Jalandhar Punished for 3 months
5. 259/2008 15/61/85 NDPS Act Nakodar/Jalandhar Punished for 3 months
6. 49/2008 15/61/85 NDPS Act Nakodar/Jalandhar Punished for 1-1/2 years
7. 178/2009 15/61/85 NDPS Act Nakodar/Jalandhar Punished for 10 years along with fine of Rs. 1 lac
8. 70/2013 15/61/85 NDPS Act Nakodar/Jalandhar Pending
9. 206/2014 15/61/85 NDPS Act Nakodar/Jalandhar Pending
10. 85/2014 15/61/85 NDPS Act Sadar/Nawanshahar Pending

8. A perusal of the aforesaid list shows that the petitioner was convicted in 4 cases out of 10 cases, whereas trial in three was still pending. The list of cases against the husband of the petitioner, namely, Darshan Lal was also furnished, which is as under:-

Sr. No. FIR number/year Under Section Police Station and District Status

1. 14/1983 15/61/85 NDPS Act Nakodar/Jalandhar
2. 173/1983 15/61/85 NDPS Act Nakodar/Jalandhar
3. 77/1984 61/1/14 NDPS Act Nakodar/Jalandhar
4. 194/1984 61/1/14 NDPS Act Nakodar/Jalandhar
5. 312/1984 15/61/85 NDPS Act Nakodar/Jalandhar
6. 176/1986 15/61/85 NDPS Act Nakodar/Jalandhar
7. 326/1986 61/1/14 NDPS Act Nakodar/Jalandhar
8. 452/1986 15/61/85 NDPS Act Nakodar/Jalandhar
9. 110/1992 15/61/85 NDPS Act Nakodar/Jalandhar
10. 36/1993 15/61/85 NDPS Act Nakodar/Jalandhar
11. 50/1993 15/61/85 NDPS Act Nakodar/Jalandhar
12. 331/2000 15/61/85 NDPS Act Nakodar/Jalandhar
13. 487/2003 15/61/85 NDPS Act Nakodar/Jalandhar
14. 286/2012 15/61/85 NDPS Act Nakodar/Jalandhar
15. 70/2013 15/61/85 NDPS Act Nakodar/Jalandhar
16. 53/2014 15/61/85 NDPS Act Nakodar/Jalandhar

9. Considering the track record of the entire family, who had been regularly indulging in drug trade and convicted in number of cases, there is no error in the order passed by the authorities freezing the property in question.

10. The writ petition is accordingly dismissed.