

MOOT PROPOSITION

Satnam Singh and Another v. State of Punjab

1. Satnam Singh, Balbir Singh and Kuldeep Kaur were tried for the offences u/s 8 (c) r/w Ss. 18 (c), 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985. In the trial before the Special Court, Patiala the accused Satnam Singh and Balbir Singh were convicted and sentenced under different provisions of the NDPS Act, 1985. However, Accused Kuldeep Kaur was acquitted by the Special Court.
2. Satnam Singh was sentenced to rigorous imprisonment for 10 years and fine of INR 1,00,000/- u/s 18 (c) of the NDPS Act, 1985. In case of default in payment of fine, he was ordered to undergo further rigorous imprisonment of six months. On the other hand, Balbir Singh was sentenced to rigorous imprisonment for 15 years and fine of INR 1,50,000/- u/s 18 (c) r/w section 31(1) of the NDPS Act, 1985.

The case of the Prosecution before the Special Court was as under:

1. On 8th January 2015 Satnam Singh, was on his way to Patiala from Nabha driving white colored Toyota Fortuner with registration number PB 11 XZ 2345. He was accompanied by Balbir Singh, travelling in the same vehicle. The said vehicle was signaled to stop at a Police Naka near Bhakhra Nehar Bridge on Patiala-Nabha Road at about 7:30 pm on 8th January 2015. Police team at Naka duty comprised Sub-Inspector Hakam Singh, Head Constable Narotam Singh, Constable Pritam Singh and Constable Dalip Singh of Central Police Station, Patiala.
2. Constable Dalip Singh asked Satnam Singh to come out of the vehicle and open its rear door for search. Satnam Singh mildly resisted and said to Dalip Singh that he may be allowed to proceed as he is in hurry to attend an urgent work in Patiala. Dalip Singh reported the matter to Sub-Inspector Hakam Singh, who himself proceeded towards vehicle along with Head Constable Narotam Singh. Sub-Inspector Hakam Singh told Satnam Singh that vehicle was needed to be searched and Satnam Singh had to open the rear door of the vehicle. Satnam Singh alighted from the vehicle along with Balbir Singh and opened the rear door of the vehicle. Search of the vehicle was conducted by Head Constable Narotam Singh in the presence of Sub-Inspector Hakam Singh.

3. A hand bag was lying in the boot of the vehicle. Sub-Inspector Hakam Singh asked Satnam Singh to open the bag. To this Satnam Singh told that bag contained nothing else but clothes. He should be allowed to go as he was already getting late and he needed to attend some urgent work. The police party became suspicious about the contents of the bag due to apparent hesitation of Satnam Singh. Sub Inspector called on phone one Deena Nath a resident of nearby village Ranbirpura and also requested one Sardul Singh, who was on his way to Nabha in his Maruti Suzuki Alto Car bearing Registration No. PB 11 XY 5432 and was stopped at Naka, at that time. Both Deena Nath and Sardul Singh were asked by Sub-Inspector Hakam Singh to witness the search of bag found in the vehicle of Satnam Singh.
4. On search of the bag two polythene packets were found containing substance like opium of about one kg each. In the meantime Satnam Singh slipped away from the spot and could not be found by the police party. However, Balbir Singh was detained by Sub- Inspector Hakam Singh. A recovery memo of two packets of the contraband substance was prepared which was signed by Deena Nath and Sardul Singh as independent witnesses. Balbir Singh told police that he was accompanying Satnam Singh from Nabha. He said he knew nothing about narcotic found in the vehicle under seize. Personal search of Balbir Singh was made by Head Constable Narotam Singh after telling the Accused Balbir Singh that "Do you agree to be searched here otherwise we will take you to the Gazetted Officer or the Magistrate?" Balbir Singh submitted himself for search to Head Constable Narotam Singh without saying anything. During search, apart from the personal belongings, opium like substance of about 50 grams, knotted in a piece of polythene was found from the pocket of trouser of Balbir Singh. Search memo was prepared and signed by independent witnesses Deena Nath and Sardul Singh and also by Sub-Inspector Hakam Singh and Head Constable Narotam Singh with respect to recovery of the contraband from the person of Balbir Singh.
5. The Toyota Fortuner vehicle PB 11 XZ 2345 and the recovered material were taken to Central Police Station Patiala, along with Balbir Singh in custody. Registration documents taken out of the vehicle revealed that Toyota Fortuner PB 11 XZ 2345 was owned by Kuldeep Kaur resident of House No. 789, Green Enclave Patiala.
6. The quantity of the Narcotic Substance (Opium) recovered from the bag placed in the Toyota Fortuner PB 11 XZ 2345 (two Packets) and also the wrapper recovered on personal search of Balbir Singh were weighed separately, which weighed 1050 gms, 900 gms and 80 gms

respectively. The matter was reported to Station House Officer of the Central Police Station Patiala, Inspector Joginder Singh.

7. An FIR No. 1234 was recorded at Central Police Station Patiala u/s. 8 (c) read with Ss. 18 (c), 25 and 29 of the Narcotic Drugs and Psychotropic Act, 1985 against Satnam Singh, Balbir Singh and Kuldeep Kaur, on 9th January 2015 at 10:00 am. Investigation of the case was entrusted to Sub Inspector Hoshiar Singh of Central Police Station Patiala by Inspector Joginder Singh. Accused Satnam Singh was arrested from his house No. 789, Green Avenue, Patiala in the evening of 9th January 2015. Three sealed samples from each packet were sent to Forensic Science Lab Chandigarh on 26th January 2015. During the investigation the following facts got revealed by the Investigation officer.

- a) Satnam Singh along with his family members viz. Jaspreet Kaur (wife), Kanwar Singh aged 10 years and Tanwar Singh aged 8 years (sons), of Satnam Singh were out to Rajasthan from 28th December 2014 to 07th January 2015 travelling in the Toyota Fortuner Car PB 11 XZ 2345. Satnam Singh and his family members came back to Patiala on the evening of 07th January 2015. The Toyota Fortuner was owned by Mrs. Kuldeep Kaur mother of Satnam Singh.
- b) Satnam Singh did not have any settled way of life, that is, there was no established business, profession or job. However, he was leading comfortable and luxurious life, residing in house No. 789, Green Avenue, Patiala, owned by him.
- c) Satnam Singh went to Nabha to visit the house of Balbir Singh in the afternoon of 08th January 2015 in Toyota Fortuner vehicle No. PB11XZ 2345.
- d) On the way back from Nabha to Patiala Balbir Singh accompanied Satnam Singh. Balbir Singh had agreed to sell off the consignment of opium brought from Rajasthan by Satnam Singh. Satnam Singh delivered a sample of the opium to Balbir Singh during the return journey to Patiala from Nabha on 8th January 2015.
- e) Two packets of Opium weighing total 1950 grams were recovered from the vehicle Toyota fortuner Registration no. PB11 XZ 2345 owned by Kuldeep Kaur and in the possession of Satnam Singh during search at Police Naka at Patiala-Nabha Road, on 8th January 2015. 80 grams of opium was recovered during personal search of Balbir Singh. The FSL report of testing of the samples of the contraband seized stated it to be opium.

f) Police Report also revealed that Balbir Singh had earlier been convicted for selling opium in 2005. He was sentenced to rigorous imprisonment for 5 years and a fine of Rs. 50000/- under Section 18 (c) of the NDPS Act, 1985.

g) The police filed Challan u/s 173 Cr. P.C. on 05th March 2015 against Satnam Singh, Balbir Singh and Kuldeep Kaur accused for the offences u/s 8 (c) read with Ss. 18 (c), 25 and S. 29 of the NDPS Act, 1985.

8. Satnam Singh, Accused No. 1, and Balbir Singh, Accused No. 2, remained in custody during investigation. However, Kuldeep Kaur, Accused No. 3, was on bail. On submission of Police Report u/s 173 Cr. P.C., copies of the documents were delivered to the accused. The trial court framed charges against all accused u/s 8 (c) r/w Ss. 18 (b), 25 and 29 of the NDPS Act, 1985. All the accused did not plead guilty and faced trial.

9. During trial, the Prosecution examined Deena Nath (PW-1), Sardul Singh (PW-2), Sub Inspector Hakam Singh (PW-3), Head Constable Narotam Singh (PW-4) and Hoshiar Singh as Investigating Officer (PW-5). Prosecution also tendered into evidence the Reports of Forensic Science Lab as Ex, P-1, P-2 and P-3 confirming substance in all the three samples as opium. The ownership proof of vehicle PB 11 XZ 2345 as owned by Kuldeep Kaur, Accused No. 3, was presented as Ex P-4. Prosecution also submitted the copy of the judgment of the Court regarding conviction of Balbir Singh u/s 8 (c) r/w S. 18 (c) the NDPS Act, in 2005, but it was not marked. Opportunity to cross examine all the witnesses was given to the defence. The statement of all the accused were recorded u/s 313 of the Code of Criminal Procedure, 1973. In reply to the questions by the court, all the accused denied the prosecution version. The court also put the questions to Accused No. 2 Balbir Singh about his previous conviction, which he denied.

Defence put up its case by cross examining prosecution witnesses, examining defence witnesses and producing documents as under:

10. That all the accused were falsely implicated by the police. It was denied that there was any search or seizure by police at Naka duty on 8th January 2015.

11. It was pleaded that accused No. 1 Satnam Singh had a dispute regarding boundary wall of his house No. 789, Green Avenue, Patiala with one Shamsher Singh. Satnam Singh went on trip to Rajasthan with his family, during school vacations of his children, from 28th December

2014 to 7th January 2015, Taking benefit of the absence of Satnam Singh, Shamsher Singh encroached upon part of the land of the house owned by Satnam Singh, by constructing a wall. Harnam Singh (DW-2), a neighbour of Satnam Singh, deposed before the court about said encroachment.

12. Satnam Singh went to Central Police Station Patiala on 8th January 2015 at about 10:00 am to lodge complaint against Shamsher Singh for the said encroachment of his land. Satnam Singh met Inspector Joginder Singh, Station House Officer of Central Police Station, Patiala to lodge his complaint against Shamsher Singh. Inspector Joginder Singh marked his complaint to Sub-Inspector Hakam Singh. Copy of the complaint was submitted to the court.
13. When Satnam Singh contacted Sub Inspector Hakam Singh at 11 am on 8th January 2015, Sub-Inspector Hakam Singh told Satnam Singh that he was busy in some other matter and Satnam Singh could see him in the evening, and at that time he would be at Naka Duty on Patiala-Nabha Road.
14. Thereafter Satnam Singh went to the house of Balbir Singh, his brother-in-law, at Nabha. Satnam Singh asked Balbir Singh to accompany him to Patiala as he got dispute with Shamsher Singh and he needed his help. On their return journey from Nabha to Patiala at about 7:00 pm on 8th January 2015, Satnam Singh and Balbir Singh halted at Police Naka on Patiala-Nabha Road, to see Sub-Inspector Hakam Singh regarding Satnam Singh's complaint against Shamsher Singh.
15. Defence pleaded that the Sub-Inspector Hakam Singh was out to favour Shamsher Singh as he was an influential person with political links. Both Satnam Singh and Balbir Singh were taken to Central Police Station, Patiala along with their vehicle and were put in the lock up. Thereafter accused in the present case were falsely implicated for the offences under NDPS Act.
16. Sardul Singh (DW-1) deposed before the trial court that he had not witnessed any search or seizure at police Naka on Patiala-Nabha Road on 8th January 2015. But police got his signatures on some papers, on 9th January 2015 by calling him at Central Police Station, Patiala. He did not know what was written on those papers.

17. Defence also pleaded before the trial court that Deena Nath was a gambler and a stooge of police. He remained witness in many cases at the behest of Police, as and when required by Police.
18. The trial court after considering all the material on record convicted Satnam Singh Accused No. 1 and Balbir Singh Accused no 2 u/s 8 (c) read with S. 18 (c) of NDPS Act. Satnam Singh was sentenced with Rigorous Imprisonment of 10 years and a fine of Rs. One lac and in default of payment of fine a further rigorous imprisonment of six months under section 18 (c) of NDPS Act, 1985. Accused No. 2 Balbir Singh was sentenced to Rigorous Imprisonment of 15 years and a fine of Rs. One lac Fifty thousand under sections 18 (c) read with section 31 (1) of the NDPS Act, 1985. In default of payment of fine Balbir Singh was to undergo a further term of rigorous imprisonment for one year. Accused No. 3 Kuldeep Kaur was acquitted.
19. Appeal is preferred by both Satnam Singh and Balbir Singh Appellants before the Hon'ble Punjab & Haryana High Court. In the grounds of appeal the Appellants pleaded that the trial court has failed to rightly appreciate the facts of the case where the prosecution has utterly failed to prove the offences against them. The appellants further pleaded that they had been falsely implicated in the case. The procedure alleged to be adopted in search and seizure does not stand the scrutiny of law, and it also does not satisfy the safeguards provided under S. 50 of the NDPS Act, 1985. It is also alleged that the trial court has taken the factum of previous conviction of Appellant Balbir Singh without framing charges for that and proper evidence on record.

Argue the case on behalf of Appellants and Respondent.