

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL APPEAL NO.912/2010

THE STATE OF HIMACHAL PRADESH

Appellant(s)

VERSUS

KARUNA SHANKER PURI

Respondent(s)

WITH

Criminal Appeal No.219 /2022  
[@ SLP(Cr1) No. 1541/2014 (II-C)]

Criminal Appeal Nos.234-236/2022  
[In SLP [CRL.] Nos.1165-1167/2014 @ SLP(Cr1) Nos.1164-1167/2014]

Cr1.A. No. 1083/2016 (II-C)

Cr1.A. No. 1062/2011 (II-C)

Cr1.A. No. 1192/2010 (II-C)

Cr1.A. No. 1063/2011 (II-C)

Cr1.A. No. 2207/2010 (II-C)

Cr1.A. No. 1085/2016 (II-C)

Cr1.A. No. 1090/2016 (II-C)

Cr1.A. No. 1092/2016 (II-C)

Cr1.A. No. 1084/2016 (II-C)

Cr1.A. No. 1089/2016 (II-C)

Cr1.A. No. 1088/2016 (II-C)

Cr1.A. No. 1091/2016 (II-C)

Cr1.A. No. 107/2017 (II-C)

O R D E R

CRIMINAL APPEAL NO.912/2010, Criminal Appeal  
No.219/2022 [@ SLP(Cr1) No.1541/2014 (II-C)], Cr1.A.  
No.1192/2010, Cr1.A.No.1063/2011, Cr1.A. No. 1085/2016,

Cr1.A. No. 1090/2016, Cr1.A. No.1092/2016, Cr1.A. No.1091/2016, Cr1.A. No.107/2017, Criminal Appeal No.2207/2010, Criminal Appeal No.1089/2016 & Criminal Appeal No.1088/2016

Leave granted in SLP [Cr1.] No.1541/2014.

It is stated by both the counsels for the appellant and the accused that the matters were kept aside in terms of the order dated 12.09.2018 to await the judgment in *Hira Singh & Anr. v. Union of India & Anr.* case which judgment has now been delivered and reported as *Hira Singh & Anr. v. Union of India & Anr.*- (2020) SCC Online SC 382. This Court has opined on the issue whether the actual content of the weight of the offending drug is to be considered or whether as a whole procedure has to be looked into on the basis of the larger objective of the Narcotic Drugs and Psychotropic Substances Act to opine as under:

"65. In view of the above and for the reasons stated above, Reference is answered as under:

(I) The decision of this Court in the case of *E. Michael Raj* (supra) taking the view that in the mixture of narcotic drugs or psychotropic substance with one or more neutral substance(s), the quantity of the

neutral substance(s) is not to be taken into consideration while determining the small quantity or commercial quantity of a narcotic drug or psychotropic substance and only the actual content by weight of the offending narcotic drug which is relevant for the purpose of determining whether it would constitute small quantity or commercial quantity, is not a good law;

(II) In case of seizure of mixture of Narcotic Drugs or Psychotropic Substances with one or more neutral substance(s), the quantity of neutral substance(s) is not to be excluded and to be taken into consideration along with actual content by weight of the offending drug, while determining the "small or commercial quantity" of the Narcotic Drugs or Psychotropic Substances;

(III) Section 21 of the NDPS Act is not stand-alone provision and must be construed along with other provisions in the statute including provisions in the NDPS Act including Notification No.S.O.2942(E) dated 18.11.2009 and Notification S.O.1055(E) dated 19.10.2001;

(IV) Challenge to Notification dated

18.11.2009 adding "Note 4" to the Notification dated 19.10.2001, fails and it is observed and held that the same is not *ultra vires* to the Scheme and the relevant provisions of the NDPS Act. Consequently, writ petitions and Civil Appeal No.5218/2017 challenging the aforesaid notification stand dismissed."

The effect of the aforesaid is that the quantity of the neutral substance is not to be excluded and to be taken into consideration along with the actual content of the weight of the offending drug while determining small and commercial quantities.

The aforesaid being the position and the appeals being allowed by the High Court predicated only on a view to the contrary without examination of the merits of the appeal, there is no option but to set aside the impugned judgment and remit the matter back to the High Court for consideration of the appeal on merits keeping the aforesaid judgment in mind.

We may further note the submissions of learned counsels for the respondent(s) that the number of respondents may have served substantive part of sentence and if there are no other cases subsequently brought against them, the High Court may consider confining the sentence to the period undergone. This

would be an aspect to be examined by the High Court but is naturally dependent on the minimum sentence to be imposed.

We call upon the State to place a chart *qua* all the accused i.e. whether they are charged with any other cases in this behalf for the High Court to be able to take a call in the matter.

The appeals are allowed in the aforesaid terms leaving parties to bear their own costs.

Criminal Appeal Nos.234-236/2022

[In SLP [CRL.] Nos.1165-1167/2014 @ SLP(Cr1) Nos.1164-1167/2014]

Leave granted.

We have heard learned counsel for parties.

The impugned order of acquittal reversing the judgment of the High Court was predicated on a dual reasoning:

a) The sample originally sent was not accepted but was subsequently accepted but it was not disclosed as to what objections were put by the laboratory and whether these were with respect to the seal on the sample parcels or any discrepancy in documents so sent to them or there were any other reason which compelled the lab not to accept the sample parcels.

b) The *charas* sample which was examined both for qualitative and quantitative test would not meet

the principles laid down in respect of quantification of the drug, an aspect we may note stands covered by the judgment in *Hira Singh* (supra) opining that in the case of seizure of a mixture, the quantity of neutral substance is not to be excluded and to be taken into consideration along with the actual content of weight of the offending drug while determining the small or commercial quantity.

We have remitted the connected matters in view of the aforesaid judgment on the second aspect. However, the present case is slightly different case because the acquittal based on two separate grounds of the first grant of acquittal would still stand.

The aforesaid being the position, we dismiss the appeals leaving parties to bear their own costs.

**CRIMINAL APPEAL NO.1083/2016**

We have heard learned counsel for parties.

Learned counsel for the respondent sought to distinguish this case from the orders passed in Criminal Appeal No.912/2010 today on the basis that the application of the State Government to lead additional evidence was disallowed by the High Court.

On the other hand, learned counsel for the State has drawn our attention to para 9 of the impugned order to say that the only aspect which weighed while allowing the appeal was that the earlier view that the contraband substance so recovered in the present case cannot be said to be *charas* and that aspect stands now overruled with the judgment in *Hira Singh* (Supra) as the quantity of neutral substance has to be included.

We are in agreement with the submission of learned counsel for the State that the present matter will also have to be remitted back to the High Court for consideration in terms of the judgment except that the High Court having rejected the application for adducing additional evidence, that aspect is not permitted to be agitated again.

The appeal is allowed in the aforesaid terms leaving parties to bear their own costs.

**CRIMINAL APPEAL NO.1062/2011**

The appeal was tagged with some connected appeals which have been dealt with us by our order passed in Criminal Appeal No.912/2010 and connected matters today remitting the same based on the judgment of this Court in *Hira Singh* (supra). However, it has been rightly pointed out by learned counsel for the appellant that the said aspect which no more survives

is one of the reasons for acquittal of the respondent. The other reason was that the independent witnesses turned hostile and the testimony of the police witnesses did not seem to inspire confidence. We have perused the judgment in this behalf of the High Court and cannot say that this is a case where the acquittal by the High Court should be turned into one of conviction, applying the parameters for such a legal position.

The appeal is accordingly dismissed leaving parties to bear their own costs.

CRIMINAL APPEAL NO.1084/2016

We have heard learned counsel for parties.

Insofar as the offence under the Indian Forest Act is concerned while convicting the owner and the driver (both of whom are deceased) the other two persons were acquitted including the respondent before us as mere passenger. Insofar as the NDPS Act is concerned, no doubt the acquittal is predicated only on the legal view which now stands reversed in the judgment of *Hira Singh* (supra). However, the important aspect is the concurrent findings whereby it has been opined that there was no evidence of the appellant and the other accused having knowledge of the transportation and violation of the Rules.

The aforesaid being the position, we are not inclined to remit this matter back for reconsideration in view of the judgment in *Hira Singh* (supra).

The appeal is dismissed leaving parties to bear their costs.

.....J.  
[SANJAY KISHAN KAUL]

.....J.  
[M.M. SUNDRESH]

NEW DELHI;  
FEBRUARY 09, 2022.

ITEM NO.102                      Court 6 (Video Conferencing)                      Revised qua appearances only  
SECTION II-C

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Criminal Appeal No(s). 912/2010

THE STATE OF HIMACHAL PRADESH

Appellant(s)

VERSUS

KARUNA SHANKER PURI

Respondent(s)

(MR. A.K. SANGHI, LEARNED SENIOR COUNSEL APPOINTED AS AMICUS CURIAE  
IN CRIMINAL APPEAL NO. 912 OF 2010 )

WITH

SLP(Cr1) No. 1541/2014 (II-C)  
(FOR STAY APPLICATION ON IA 4209/2014

SLP [CRL.] Nos.1165-1167/2014 @ SLP(Cr1) Nos. 1164-1167/2014 (II-C)  
(SPECIAL LEAVE PETITION (CRL.) NO. 1164 OF 2014 IS DISMISSED VIDE  
THIS COURT'S ORDER DATED 28.10.2016.)

Cr1.A. No. 1083/2016 (II-C)  
(FOR STAY APPLICATION ON IA 3049/2014

Cr1.A. No. 1062/2011 (II-C)

Cr1.A. No. 1192/2010 (II-C)

Cr1.A. No. 1063/2011 (II-C)

Cr1.A. No. 2207/2010 (II-C)

Cr1.A. No. 1085/2016 (II-C)  
FOR STAY APPLICATION ON IA 3686/2014

Cr1.A. No. 1090/2016 (II-C)

Cr1.A. No. 1092/2016 (II-C)

Cr1.A. No. 1084/2016 (II-C)

Cr1.A. No. 1089/2016 (II-C)

Cr1.A. No. 1088/2016 (II-C)

Cr1.A. No. 1091/2016 (II-C)  
FOR [PERMISSION TO FILE ANNEXURES] ON IA 7509/2015

Cr1.A. No. 107/2017 (II-C)  
(MR. AMRENDRA SARAN, LEARNED SENIOR COUNSEL AND MR. AMITANAND

TIWARI, ADVOCATE APPOINTED AS AMICUS CURIAE VIDE HON'BLE COURT'S ORDER DATED 10.01.2019.)

Date : 09-02-2022 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL  
HON'BLE MR. JUSTICE M.M. SUNDRESH

Mr. A.K. SANGHI, AC

For Appellant(s) Mr. Abhinav Mukerji, AOR  
Mrs. Bihu Sharma, Adv.  
Ms. Pratishtha Vij, Adv.  
Mr. Akshay C. Shrivastava, Adv.

Mr. Himanshu Tyagi, AOR

For Respondent(s) Mr. Mahabir Singh, Sr. Adv.  
Ms. Preeti Singh, AOR  
Mr. Sunklan Porwal, Adv.  
Ms. Soumya Dwivedi, Adv.  
Mr. Dinesh Kumar Bhati, Adv.  
Mr. Veerendra Kumar, Adv.

Mr. Jana Kalyan Das, Sr. Adv.  
Mr. Sandeep Devashish Das, Adv.  
Mr. Shaswat Sarin, Adv.  
Mr. Parmanand Gaur, AOR

Mr. Dinesh Kumar Garg, AOR  
Mr. Abhishek Garg, Adv.  
Mr. Dhananjay Garg, Adv.  
Mr. N. Suresha, Adv.

Mr. Rameshwar Prasad Goyal, AOR

Mr. Ritesh Agrawal, AOR

Mr. S.L. Gupta, Adv.  
Mr. Ashutosh Sharma, Adv.  
Ms. Gunjan Sharma, Adv.  
Mr. Kuldeep Singh Tomar, Adv.  
Mr. Neeraj Srivastava, Adv.  
Ms. Shalu Sharma, AOR

Mr. Ranji Thomas, Sr. Adv.  
Mr. Shashank Shekhar, Adv.  
Mr. Chander Shekhar Ashri, AOR

Mr. Anil Shrivastav, AOR

Mr. Sunil Kumar Verma, AOR

Ms. Asha Gopalan Nair, AOR

Mr. Amit Anand Tiwari, AOR

Ms. Nidhi, AOR

Mr. Sarthak Arora, Adv.

UPON hearing the counsel the Court made the following

**O R D E R**

CRIMINAL APPEAL NO.912/2010, SLP(Cr1) No. 1541/2014, Cr1.A. No. 1192/2010, Cr1.A. No. 1063/2011, Cr1.A. No. 1085/2016, Cr1.A. No. 1090/2016, Cr1.A. No.1092/2016, Cr1.A. No.1091/2016, Cr1.A. No.107/2017, Criminal Appeal No.2207/2010, Criminal Appeal No.1089/2016 & Criminal Appeal No.1088/2016

Leave granted in SLP [Cr1.] No.1541/2014.

The appeals are allowed in terms of the signed order.

Pending application(s) stand(s) disposed of.

SLP [CRL.] Nos.1165-1167/2014 @ SLP(Cr1) Nos.1164-1167/2014

Leave granted.

The appeals are dismissed in terms of the signed order.

Pending application(s) stand(s) disposed of.

CRIMINAL APPEAL NO.1083/2016

The appeal is allowed in terms of the signed order.

Pending application(s) stand(s) disposed of.

CRIMINAL APPEAL NO.1062/2011

The appeal is dismissed in terms of the signed order.

Pending application(s) stand(s) disposed of.

CRIMINAL APPEAL NO.1084/2016

The appeal is dismissed in terms of the signed order.

Pending application(s) stand(s) disposed of.

(ASHA SUNDRIYAL)  
ASTT. REGISTRAR-cum-PS

(POONAM VAID)  
COURT MASTER (NSH)

[Common signed order is placed on the file]

ITEM NO.102

Court 6 (Video Conferencing)

SECTION II-C

**S U P R E M E C O U R T O F I N D I A**  
**RECORD OF PROCEEDINGS**

Criminal Appeal No(s). 912/2010

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THIS COURT'S ORDER DATED 28.10.2016.)

Cr1.A. No. 1083/2016 (II-C)  
(FOR STAY APPLICATION ON IA 3049/2014

Cr1.A. No. 1062/2011 (II-C)

Cr1.A. No. 1192/2010 (II-C)

Cr1.A. No. 1063/2011 (II-C)

Cr1.A. No. 2207/2010 (II-C)

Cr1.A. No. 1085/2016 (II-C)  
FOR STAY APPLICATION ON IA 3686/2014

Cr1.A. No. 1090/2016 (II-C)

Cr1.A. No. 1092/2016 (II-C)

Cr1.A. No. 1084/2016 (II-C)

Cr1.A. No. 1089/2016 (II-C)

Cr1.A. No. 1088/2016 (II-C)

Cr1.A. No. 1091/2016 (II-C)  
FOR [PERMISSION TO FILE ANNEXURES] ON IA 7509/2015

Cr1.A. No. 107/2017 (II-C)  
(MR. AMRENDRA SARAN, LEARNED SENIOR COUNSEL AND MR. AMITANAND  
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ORDER DATED 10.01.2019.)

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HON'BLE MR. JUSTICE M.M. SUNDRESH

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For Respondent(s) Mr. Mahabir Singh, Sr. Adv.  
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Mr. Dinesh Kumar Bhati, Adv.  
Mr. Veerendra Kumar, Adv.

Mr. Dinesh Kumar Garg, AOR

Mr. Rameshwar Prasad Goyal, AOR

Mr. Ritesh Agrawal, AOR

Mr. Parmanand Gaur, AOR

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Mr. Anil Shrivastav, AOR

Mr. Sunil Kumar Verma, AOR

Ms. Asha Gopalan Nair, AOR

Mr. Amit Anand Tiwari, AOR

Ms. Nidhi, AOR

UPON hearing the counsel the Court made the following  
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Cr1.A. No. 1192/2010, Cr1.A. No. 1063/2011, Cr1.A. No.

1085/2016, CrI.A. No. 1090/2016, CrI.A. No.1092/2016, CrI.A. No.1091/2016, CrI.A. No.107/2017, Criminal Appeal No.2207/2010, Criminal Appeal No.1089/2016 & Criminal Appeal No.1088/2016

Leave granted in SLP [CrI.] No.1541/2014.

The appeals are allowed in terms of the signed order.

Pending application(s) stand(s) disposed of.

SLP [CRL.] Nos.1165-1167/2014 @ SLP(CrI) Nos.1164-1167/2014

Leave granted.

The appeals are dismissed in terms of the signed order.

Pending application(s) stand(s) disposed of.

CRIMINAL APPEAL NO.1083/2016

The appeal is allowed in terms of the signed order.

Pending application(s) stand(s) disposed of.

CRIMINAL APPEAL NO.1062/2011

The appeal is dismissed in terms of the signed order.

Pending application(s) stand(s) disposed of.

CRIMINAL APPEAL NO.1084/2016

The appeal is dismissed in terms of the signed order.

Pending application(s) stand(s) disposed of.

(ASHA SUNDRIYAL)  
ASTT. REGISTRAR-cum-PS

(POONAM VAID)  
COURT MASTER (NSH)

[Common signed order is placed on the file]