

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No(s). 723 OF 2019  
(Arising out of (Cr1.) No(s).8420 of 2018)

SHYAM PRASHAD

Appellant(s)

VERSUS

THE STATE OF HIMACHAL PRADESH

Respondent(s)

J U D G M E N T

BANUMATHI, J.:

Leave granted.

(2) This appeal arises out of judgment and order of the High Court of Himachal Pradesh at Shimla in Criminal Appeal No.521 of 2015 dated 21<sup>st</sup> July, 2016 in and by which the High Court has affirmed the conviction of the appellant under Section 20(b) (ii) (C) of the Narcotic Drugs and Psychotropic Substances Act, 1985 and also sentence of imprisonment of fifteen years imposed upon the appellant. The High Court also affirmed the fine amount of Rs.1,00,000/- (Rupees One Lakh) and also default sentence of simple imprisonment of one year.

(3) By Order dated 28<sup>th</sup> September, 2018, notice was issued by this Court only limited to the quantum of sentence.

(4) We have heard Mr. Mukesh Jain, learned counsel appearing for the appellant, and Ms. Bihu Sharma, learned counsel appearing for the respondent-State. We have also perused the impugned judgment and, in particular, the statement of the appellant-accused regarding the quantum of sentence.

(5) By perusal of the judgment of the Trial Court, it is seen that when the appellant-accused on being questioned regarding quantum of sentence, the appellant prayed for leniency stating that he is the first-time offender; he is the sole bread earner of his family; he was then stated to be aged about 42 years; he is having one daughter to look after; that he was working as labour with Patel Construction Company at Barshaini and is a poor person and therefore prayed that lenient view may be taken while passing the sentence against him.

(6) By perusal of the jail certificate, it appears that the appellant-accused is in custody since 10<sup>th</sup> September, 2018. The appellant was found to be in possession of 10.496 kgs. Of charas (which is a commercial quantity). Section 20(b)(ii)(C) of the N.D.P.S. Act, for possession of the commercial quantity, prescribes minimum sentence of ten years which may extend to twenty years and minimum fine amount of Rs.1,00,000/- (Rupees One Lakh).

(7) Considering the statement of the appellant-accused and the peculiar facts and circumstances of the case, the sentence of imprisonment of fifteen years imposed upon the appellant-

accused is reduced to the statutory minimum of ten years. Insofar as the fine amount of Rs.1,00,000/- (Rupees one lakh) and the default sentence of one year are concerned, they are maintained.

(8) The appeal is accordingly partly allowed.

.....J.  
(R. BANUMATHI)

.....J.  
(R. SUBHASH REDDY)

NEW DELHI,  
APRIL 23, 2019.