



IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION/INHERENT JURISDICTION

CRIMINAL APPEAL NO(S).318 OF 2024

PRAKASH SINGH

APPELLANT(S)

VERSUS

THE STATE OF HIMACHAL PRADESH

RESPONDENT(S)

WITH

REVIEW PETITION (CRL.) OF 2024  
(@ Diary No(s). 50293/2023)

IN

CRIMINAL APPEAL NO. OF 2024  
(@ SLP (CRL.) NO.3346 OF 2021)

O R D E R

1. We have heard learned counsel for the parties.
2. Application for listing review petition in Court is allowed.  
Delay in filing review petition is condoned.
3. The Review Petition is allowed. The SLP (Crl.) NO. 3346/2021  
is restored to its original number. The Special Leave petition  
is taken on board.

4. Leave granted in SLP (C) NO.3346/2021.
5. The appellants were arrayed as an accused in Crime No.11/2015 for the offences punishable under Sections 20 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985. The charge against them is that on 09.02.2015, in pursuant to a random check made, while on patrol, after barricading the police party made a search and found the appellants in possession of narcotic substance amounting to 1.25 kg of 'charas'. They were carrying the said substance in the car. As there was no independent witness available, two policemen sued as witnesses for a query.
6. The Trial Court convicted them and consequently, they were sentenced to undergo 10 years of rigorous imprisonment. To ascertain the fact that the alleged occurrence did not take place as stated by the prosecution, the appellant sought for certain information under the Right to Information Act, 2005. Annexure P-10 is the order passed by the High Court, pending appeal admitting the document marked which is a Logbook. The information in the Logbook which is submitted in evidence was sent to the Trial Court to examine two witnesses who were obviously the police witnesses. The evidence recorded from those two persons would indicate that the context of the information in the Logbook was correct. Therefore, as per the information in the Logbook, the police party traveled to Primary Health Centre Nagwain, Bali Chowki and thereafter, to

the Sessions Court in Mandi. After the said travel, they returned to the police station at 3.30 PM.

7. It is the case of the prosecution that seizure and recovery was made from the appellant during that point of time. The Logbook clearly shows that the vehicle was traveling during the relevant point of time towards a different destination. This is also the evidence of DW-1 and 2. DW-1 is the SHO and DW-2 was the driver of the official vehicle.
8. The High Court in the impugned judgment brushed aside the said document coupled with the evidence adduced, by stating that the discrepancies though evident but minor in nature, and to be ignored.
9. In our considered view, the said reasoning cannot be sustained in the eyes of law. There is no dispute with respect to the entries made, if that is the case, the very case of prosecution falls to the ground. We are dealing with the case where all the witnesses belonged to the police department and, therefore, there is no independent witnesses to support the case of the prosecution. Even the undisputed document marked and the statement given by the two police witnesses, do not support the case of the prosecution.
10. In such view of the matter, we find no hesitation in setting aside the impugned judgment. Accordingly, the conviction stands set aside and the appellants are acquitted of all the charges.

11. The appellant - Prakash Singh is already on bail, his bail bonds stands discharged. The appellant - Balwinder Singh be released forthwith unless and until not required in any other case.
12. The appeals are allowed accordingly.
13. Pending application(s), if any, shall stand disposed of.

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

.....J.  
[ARAVIND KUMAR]

NEW DELHI;  
22<sup>nd</sup> AUGUST, 2024

ITEM NO.102

COURT NO.13

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). 318/2024

PRAKASH SINGH

Appellant(s)

VERSUS

THE STATE OF HIMACHAL PRADESH

Respondent(s)

(IA No.194107/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED  
JUDGMENT and IA No.194108/2023-EXEMPTION FROM FILING O.T.)

WITH

Diary No(s). 50293/2023 (II-C)

(IA No. 251747/2023 - APPLICATION FOR LISTING REVIEW PETITION IN  
OPEN COURT, IA No. 251753/2023 - CONDONATION OF DELAY IN FILING  
REVIEW PETITION, IA No. 251750/2023 - GRANT OF BAIL)

Date : 22-08-2024 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.M. SUNDRESH  
HON'BLE MR. JUSTICE ARAVIND KUMAR

For Appellant(s) Mr. Ajay Marwah, AOR  
Mr. Karan Thakur, Adv.  
Mr. Swaroopananda Mishra, Adv.  
Mr. Tapan Masta, Adv.  
Ms. Tajinder Viridi, Adv.  
Mr. Tapan Matsa, Adv.  
Mr. Arkam Khan, Adv.

For Respondent(s) Mr. Kartik Sood, Adv.  
Mr. Vikrant Narayan Vasudeva, AOR

UPON hearing the counsel the Court made the following  
O R D E R

Application for listing review petition in Court is  
allowed.

Delay in filing review petition is condoned.

The Review Petition is allowed. The SLP (CrL.) NO.

3346/2021 is restored to its original number. The Special Leave petition is taken on board.

Leave granted in SLP (C) NO.3346/2021.

The relevant portion of the order reads as under:-

'The appellant - Prakash Singh is already on bail, his bail bonds stands discharged. The appellant - Balwinder Singh be released forthwith unless and until not required in any other case.'

The appeals are allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(SWETA BALODI)  
COURT MASTER (SH)

(Signed order is placed on the file)

(POONAM VAID)  
COURT MASTER (NSH)