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STATE OF KERALA
VS
PRABHU

The Supreme Court of India

Section 50 NDPS Act Applies Only to Personal Searches and Not to Searches of Bags Carried by the Person

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STATE OF KERALA
VS
PRABHU

Section 50 NDPS Act Applies Only To Personal Searches And Not To Searches Of Bags Carried By The Person

CRIMINAL APPEAL NO. 3434 OF 2024
(Arising out of SLP(Crl.) No. 13937/2023)
Date of Judgement: 20/08/2024

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Facts of the Case:

The case involves the State of Kerala appealing to the Supreme Court against the acquittal of Prabhu by the High Court of Kerala. Prabhu was initially convicted by the Trial Court under Section 20(b)(ii)(B) of the Narcotic Drugs and Psychotropic Substances (NDPS) Act for possessing 2.050 kgs of Ganja, found during a patrol search on January 10, 2019. The Trial Court sentenced him to five years of rigorous imprisonment and a fine of ₹50,000. The Kerala High Court overturned the conviction due to non-compliance with Section 50 of the NDPS Act, which prescribes formalities for search and seizure, leading to this appeal by the State.

Issues Advanced:

Whether compliance with Section 50 of the NDPS Act is mandatory when the contraband is recovered from a bag carried by the accused, rather than directly from their person?

Judgement:

- The Hon'ble Supreme Court observed that the judgment of conviction of the trial court was interfered with and reversed by the High Court on the ground of failure to comply with the formalities prescribed under Section 50 of the NDPS Act rendered the search and seizure illegal. To hold so, the High Court has relied on its decision in Sidhik v. State of Kerala (2018).

- The State of Kerala contended that the High Court's decision to acquit Prabhu was based on an incorrect interpretation of Section 50 of the NDPS Act. They argued that the Supreme Court's precedent in **Ranjan Kumar Chadha vs. State of Himachal Pradesh clearly stated that when contraband is found in a bag and not on the person, the formalities of Section 50 do not apply.**

- **The Hon'ble Supreme Court carefully considered the arguments of both parties, reviewed the relevant legal precedents, and noted that the Trial Court had properly appreciated the evidence and found Prabhu guilty based on the contraband being recovered from a bag in his possession.**

- The Supreme Court observed that the High Court's reliance on its own decision in Sidhik v. State of Kerala was misplaced, as it conflicted with the Supreme Court's ruling in Ranjan Kumar Chadha vs. State of Himachal Pradesh. The Court emphasized that **the law regarding the requirement to comply with Section 50 of the NDPS Act is well-settled, and in cases where the recovery is from a bag and not from the person, the formalities of Section 50 are not required.**

The relevant paras of the Judgement are reproduced as under: "……..

- Thus, it is evident that the exposition of law on the question regarding the requirement of compliance with Section 50 of the NDPS Act is no more res integra and this Court in unambiguous term held that if the recovery was not from the person and whereas from a bag carried by him, the procedure formalities prescribed under Section 50 of the NDPS Act was not required to be complied with. It is to be noted that in the case on hand also the evidence indisputably established that the recovery of the contraband was from the bag which was being carried by the respondent.

- **In the said circumstances and in the light of the law laid down by this Court in Ranjan Kumar Chadha (supra), it can only be held that the understanding of the law by the High Court on the said issue of requirement to comply with Section 50 of the NDPS Act is contrary to the law laid down by this Court."**

- Consequently, the Supreme Court set aside the High Court's judgment and restored the Trial Court's conviction of Prabhu under Section 20(b)(ii)(B) of the NDPS Act. However, considering that Prabhu had already served four years, four months, and twenty-one days of incarceration, the Supreme Court confined the sentence to the period already served. The Court also granted Prabhu 30 days to pay the fine of Rs.50,000, with the default sentence to be imposed if the fine was not paid within the stipulated time.