

**IN THE COURT OF SH. AJAY KUMAR JAIN : SPECIAL JUDGE NDPS:
PATIALA HOUSE COURTS: NEW DELHI**

Case No. SC/8936/16
ID No. 02403R0273332015

Narcotics Control Bureau
Through: Sh. Vikas Yadav,
Intelligence Officer,
Narcotics Control Bureau, New Delhi

Versus

Wesley Derek Williams (In JC)
S/o Derek Williams
R/o 102, Hospital Road,
Sherwood Gardens, Brakpan
South Africa

Date of Institution : 16.12.2015
Judgment reserved on : 23.10.2019
Date of pronouncement : 31.10.2019

JUDGMENT

1. Prosecution case in brief is that a secret information received by Sh. R. S. Joshi, Superintendent NCB on 22.06.2015 at around 0700 hours that accused arriving at IGI Airport from Addis Ababa suspected to have 3 kg of cocaine, thereafter directed C.S.K. Singh IO, to constitute a team. Accordingly team was constituted and the entire team with the seal and other necessary material left the airport in government vehicle and reached airport T-3 at around 08.00 AM. At airport information about the airline arrival sought and they were informed that flight will arrive at gate no.8. IO C.S.K. Singh, IO B.L. Bairwa kept watch on passengers coming from gate no.8. At around 08.50 AM they noticed a person like the identity of accused, thereafter the accused took his baggage from belt no.8 and went to information desk of DIAL. There IO CSK Singh enquired about his name then joined independent witnesses Mahinder and Mrityunjay who were house keeping staff, then introduced themselves to accused and asked him to

produce his passport, ticket and boarding pass. Notice u/s 50 NDPS Act was given and he was explained about his legal rights to be searched before gazetted officer or magistrate. Accused told that NCB officer can take his search, thereafter with baggage he was moved to Custom office. Nothing recovered from his personal search or hand baggage. On search of his checkin bag mark Jiulongju and 4 tin boxes of round shape were recovered. All the boxes were sealed from both the sides. One box was pierced through the help of screw driver and after piercing white colour powdery substance came out, and thereafter same substance came out from all other boxes. Small quantity of white colour substance was taken from each tin box found to have given positive test for cocaine. Thereafter, the entire cocaine was transferred in a polythene packet and weighed with the help of electronic weighing machine and its weight came around 745 gm. Two samples of 5 gm each were prepared and the remaining cocaine was also seized. Remaining material was also seized in another pullanda. The other three tins also found to have containing 725 gm, 720 gm and 760 gm given positive test for cocaine and two 5 gm sample from each tin were taken. The entire material was seized. Test memo/CRCL form in duplicate prepared, panchanama was prepared.

2. On 22.06.2015 the statement of accused u/s 67 NDPS Act recorded. The seal returned to R.S. Joshi. The case property was deposited in malkhana. After recording of statement u/s 67 of the accused, he was arrested. On 23.06.2015 the sample mark A1, B1, C1 and D1 were sent to the CFSL, CBI. On 23.06.2015 IO C.S.K. Singh submitted seizure report to the superior R.S. Joshi. On 23.06.2015 IO B.L. Bairwa submitted arrest report u/s 57 NDPS Act. The witness Mahinder and Mrityunjay appeared on 24.06.2015 and their statement u/s 67 was recorded. The ticket of the accused was found to be booked from Safdarjung Enclave, New Delhi. Thereafter statement of Sujit Kumar Shah, manager of agency u/s 67 was recorded who stated that a person namely Charles came to his office for booking the ticket which was in

the name of South African national namely Wesley Derek Williams from Sao Paulo, Brazil. The phone call was made to Charles however he did not come to his office. The mobile number of Charles found to be registered in the name of Indian national, and found to have misused the same. A letter was received from Ethiopian airlines confirming that the accused travelled in said airlines and the baggage in which cocaine was recovered belongs to accused. As per the CFSL report, the samples were tested positive for cocaine and lidocaine, thereafter the complaint was filed.

3. Vide order dated 20.05.2016 charge u/s 21(c) and 23(c) were framed against the accused to which he pleaded not guilty and claimed trial.
4. Prosecution for substantiating its case examined 5 witnesses. The summary details of their depositions are as follows:
5. **PW1 C.S.K. Singh**, IO stated that on 22.06.2015, he reached the office of NCB at around 06.30 AM and Sh. R.S. Joshi handed over the written information at around 07.00 AM that accused is arriving to New Delhi by Ethiopian Airlines suspecting to carry 3 kg of cocaine. Then, the team was constituted, seals received from R.S. Joshi, other necessary items were taken and reached IGI Airport terminal 3 at around 08.00 AM thereafter, he alongwith IO B.L. Bairwa went inside the airport to information desk and enquired about arrival gate number. At around 08.50 AM they noticed a person similar to identity of accused who picked up black colour luggage from belt no.8 and went to information desk. At information desk he told his name, thereafter two persons Mahinder and Mrityunjay who were house keeping staff were joined as witness. Then the travelling documents of accused were seen. Notice u/s 50 was given. Nothing was recovered from his personal search and also from his handbag. Black colour checkin bag was also searched containing four round tin boxes. On opening the same, 745 gm, 725 gm, 720 gm and 760 gm of powdery substance was recovered which tested positive for cocaine. Two samples of 5 gm each were drawn. Thereafter the entire property was sealed, panchnama was prepared. In

cross-examination stated that secret information was received at around 07.00 AM and at that time he was in office. No copy of secret information was kept in office neither recorded in any register of office. No photograph of the suspect was available with them. The constitution of team was reduced in writing in panchnama and not anywhere else. The seal impression of NARCOTICS CONTROL BUREAU DZU not impressed in seal movement register only its number was mentioned in the register. He further stated that he cannot say whether the movement of vehicle was registered in any register even after they came back. He stated that he do not remember the clothes which were worn by the accused on said date. CCTV cameras were installed at every corner however not collected the CCTV footage. He also stated neither him nor Bairwa intercepted the accused till the immigration counter, thereafter accused went to baggage arrival belt and after collecting the baggage, accused went to DIAL desk help where he was intercepted. He further stated he do not remember the belt number. He also not collected any CCTV footage. The checkin baggage was black trolley bag. He has not checked or tracked the movement of black colour luggage from Sau Paulo to Delhi. However volunteered that baggage tag of the checked in bag showing it was checked from Sau Paulo airport. He also denied suggestion that checkin baggage was broken at the time when accused collected the same. He also denied suggestion that accused told them that the bag was broken, however volunteered that accused was saying bag was mishandled when they shared their information with him. He also stated that bag of the accused was normal and not mishandled and they presumed that the bag had not been mishandled. He stated that Mahinder and Mrityunjay were not witnesses in any other case of NCB. He also stated that it is correct that in present case, he has not placed on record labels containing the information about expiry date of chemicals. He stated that no investigation was made by him in regard to broken bag or the person Joe. The accused also told that the powdery substance is cocaine which also

found positive with testing kit. He further stated that he do not remember whether the checkin baggage of accused was under locks or not. He also stated that he did not lift the fingerprints from checkin baggage. He also denied suggestion that identification given in secret information was not sufficient to identify the accused. He also denied suggestion that accused was not acquainted with English and volunteered that he was talking in English and also denied suggestion that the accused was not apprehended at airport.

6. **PW2 B.L. Bairwa**, IO accompanied IO C.S.K. Singh and associated him during the entire proceedings. In cross-examination stated that after secret information, he came to the office and went to airport and in the car, he was told about the information regarding the accused. He also stated that he has an airport pass and went to the DIAL helpdesk in arrival hall and from there to gate no.8. He stated that the accused did not tell them that his bag was broken. The portion X to X1 of Ex.PW2/C were shown where it is recorded that bag of Wesley Dereck William was broken. He further stated that checkin baggage was having zip but do not remember whether it was locked or not.
7. **PW3 Vikas Yadav**, malkhana IO who later on conducted the inquiry and filed complaint. In cross-examination stated that witness Mrityunjay came to office on 24.06.2015 at around 12-01.00 PM. **PW4 Ravi Shankar Joshi**, Superintendent who recorded the secret information in cross-examination stated that at the time of receiving information he was at his home and denied suggestion that entry pertaining to present case is manipulated. **PW5 HC Mahinder Singh** delivered the sample to the CFSL, CBI.
8. Accused in his statement u/s 313 Cr.PC denied all the incriminating circumstances put to him. Accused pleaded that nothing was recovered from him and falsely implicated in the present case. He stated that he brought to the notice of staff of airport regarding his bag and it was only on his complaint the action was initiated which could have been checked from

CCTV recordings. He further submits that the officials never heard or bothered to place on record the relevant CCTV recordings. He also stated that he asked the officials to conduct his polygraph/lie detector test but the official never conducted despite his request and he was forced to sign certain documents. He was also forced to write at the dictation of officials of NCB without his will. He was neither brought before any magistrate or gazetted officer nor told that he has any right to give his statement in their presence. However accused not opted to lead any defence.

9. **Material Exhibits** - **Ex.PW1/A** is the secret information. **Ex.PW4/A** is the copy of seal movement register. **Ex.PW2/A** is the notice u/s 50 NDPS Act. **Ex.PW1/B** (colly) is the panchnama, tickets, booking reference number, passport copy. **Ex.PW3/A** is the malkhana entry. **Ex.PW2/C** is the statement of accused u/s 67 NDPS Act. **Ex.PW2/D** is the arrest memo and personal search memo of accused. **Ex.PW1/E** is the seizure report u/s 57 NDPS Act, **Ex.PW2/F** is the arrest report u/s 57 NDPS Act. **Ex.PW2/G and PW3/B** is the statement of Mahinder and Mrityunjay u/s 67 NDPS Act. **Ex.PW3/C** is the letter of FRRO. **Ex.PW3/F** is the statement of Sujit Kumar Shaw u/s 67 NDPS Act. **Ex.PW3/I** is the letter of Ethiopian airlines enclosing manifest, ticket and boarding card copy and baggage tag details. **Ex.PW4/E** is the chemical examination report.
10. **Ld. Amicus Curiae** for the accused submitted that that accused was falsely implicated and the entire contraband was planted by the NCB. The recovered contraband from checkin bag cannot be believed because checkin bag was in broken condition and accused was present to complain about the said fact and this fact is also recorded in the statement of accused u/s 67 NDPS Act. **Ld. Amicus Curiae** submits that independent witnesses namely Mahinder and Mrityunjay were not examined therefore, the prosecution case cannot be believed merely on the testimony of PW1 and PW2. **Ld. Amicus Curiae** submits that PW1 in panchnama stated that the recovered tin boxes were round shaped however found to be cylindrical shaped which creates

doubt over the factum of recovery. Ld. Amicus Curiae submits that IO had not placed on record labels containing the information about the expiry of chemical by which he tested the contraband at airport thus creating doubt about the test conducted at airport. Ld. Amicus Curiae further submits that in view of the mandate of judgment of Apex Court titled *Arif Khan @ Aga Khan vs. State of Uttarakhand 2018 SC 459* the accused is required to be present before the Magistrate or gazetted officer prior to the conducting of search however the said mandatory requirement is not followed and the accused is entitled to be acquitted on the said ground alone. Ld. Amicus Curiae submits that prosecution not able to prove its case beyond reasonable doubt hence, accused is entitled to be acquitted.

11. Ld. SPP on the other hand submitted that accused was found with checkin bag at airport counter. His presence at the airport is not at all doubtful as clear from the travel documents and furthermore also admitted the said fact in his statement u/s 313 Cr.PC but only raised the plea that checkin baggage from which the contraband recovered was broken however not able to show the said fact from the evidence on record. Ld. SPP submits that the testimony of PW1 and PW2 on the factum of apprehension of accused and recovery of contraband from checkin baggage of accused is fully credible. Ld. SPP submits that the independent witnesses examined at the time of recovery are not found traceable therefore, no benefit could be given to the accused of their non examination. Ld. SPP submits that prosecution able to prove its initial burden beyond reasonable doubt however accused unable to rebut the presumption u/s 35 and 54 NDPS Act thus, liable to be convicted for the offences charged.

12. Arguments heard. Record perused.

13. The brief sequence of facts is that on secret information, the raiding team headed by PW1 C.S.K. Singh, IO reached the airport terminal 3 and enquired about the flight no. ET-686 coming from Addis Ababa, and on inquiry found that the flight will arrive at gate no.8 at around 08.40 AM. The Ethiopian

flight arrived at gate no.8 and at around 08.50 PM noticed the accused who took his checkin baggage from belt no. 8 and thereafter went to information desk of DIAL which was situated near Custom Counter in arrival hall. Thereafter, he was enquired about his identity and in presence of the independent witnesses accused produced his passport, ticket, boarding passes and thereafter notice u/s 50 was given and was apprised of his legal right to be searched before magistrate or gazetted officer however he denied. Then he was taken to custom office where he was physically searched however nothing found on his personal search and his black colour handbag was also searched but nothing incriminating was found. Thereafter his black colour checkin bag was also checked and during the search of checkin bag, four tin boxes were recovered and on testing gave positive result for cocaine. Two samples of 5 gm each were taken from each tin box and total cocaine recovered from each tin box is 745 gm, 725 gm, 720 gm and 760 gm.

14. From the statement of accused u/s 313 Cr.PC, his presence at the airport in the manner alleged by the prosecution is not in doubt however only plea that he brought into the notice of the staff at airport regarding his bag and it is only on his complaint the action was initiated. The presence of this accused at the relevant time is also corroborated through his recovered boarding pass, tickets.
15. Nothing was recovered from his personal search or handbag. Four tin boxes containing cocaine was recovered from checkin bag. The prosecution examined the raiding team members IO C.S.K. Singh (PW1), IO B.L. Bairwa (PW2) however the independent witnesses Mahinder and Mrityunjay found untraceable therefore dropped vide order dated 17.07.2019. Only PW1 and PW2 are the witnesses of entire recovery examined before this court. Both these witnesses testified that they had noticed the accused taking the checkin bag from belt no.8 and thereafter went to the desk of DIAL near Custom counter and in presence of independent witnesses Mahinder and

Mrityunjay, the accused was searched. Nothing was recovered from his personal search or handbag however on checking his checkin bag, 4 tin boxes were recovered found to have containing the contraband, gave result for cocaine, then two samples were taken from each tin box and all the proceedings were conducted. The material was sealed and panchnama was prepared. There is nothing in their cross-examination to doubt their presence at the airport over the fact of recovery of contraband from the checkin baggage of the accused. In cross-examination PW1 C.S.K. Singh, IO stated that from the baggage tag of checkin bag of accused it was clear that the same was checked in by the accused at Sau Paulo Airport and the same baggage travelled to Delhi via Addis Ababa. The said fact is also corroborated through the documents seized. He denied suggestion that accused told him that the bag was broken however volunteered that accused was saying that his bag was mishandled but the bag of the accused was looking normal and not mishandled. PW2 in cross-examination categorically stated that accused did not tell them that his bag was broken however he was confronted with the statement of accused u/s 67 (Ex.PW2/C) recorded by PW2. Accused in this statement disclosed that when he got the bag, he showed that his bag was broken and went to the information desk to report. However, it is also recorded by accused in statement that nothing valuable was missing from his checkin bag hence did not give any written complaint.

16. The accused appears to have raised the plea that his checkin baggage was broken/mishandled however not pleaded expressly that the contraband boxes were planted in the said bag. The accused appears to sought benefit that his bag was broken or mishandled however the entire incident of search and condition of the bag is to be appreciated in the facts and circumstances of this case. Accused was found to have been taking the bag from belt no.8 and thereafter intercepted at the DIAL desk near custom counter. The accused could not displace the said factum in cross-examination only relied upon that his bag was mishandled and broken which was completely denied

by the witnesses. It is pertinent to notice that accused in his statement u/s 313 Cr.PC nowhere expressly pleaded that his bag was broken however only stated that he brought into the notice of the staff of airport regarding his bag. His bag was produced in the court during evidence. Nothing was pointed out by the accused in the court that the said bag was broken or mishandled so that anything could be inserted in the said bag. Therefore the plea of the accused that the checkin bag in which the contraband was found is broken is not at all credible.

17.Ld. Amicus Curiae for the accused categorically submitted that NCB officials have not collected the CCTV footage which could clear the entire picture, however there is no mandatory requirement of collection of CCTV footage by the investigating agency. But Ld. Predecessor on request of accused, vide order dated 17.08.2015 directed the DIG CISF to preserve the CCTV footage dated 22.06.2015, however a report is received vide letter dated 27.08.2015 from Deputy Commandant, CISF, IGI Airport that the CCTV footage is not available as the same is already erased from the system. Therefore in present facts and circumstances, no benefit could be given to the accused for non production of CCTV footage.

18.The accused filed a retracted statement on 23.07.2015 i.e. after one month of his arrest in which he alleged that his statement was recorded forcibly. However the statement u/s 67 containing the personal details of accused and he was also allowed to write that his bag was broken. Therefore in these circumstances it could not be held that the statement u/s 67 was recorded forcibly and under coercion. It is settled law that statement u/s 67 is admissible and conviction can be based on the basis of this statement. However there is enough independent evidence on record to substantiate the case of prosecution besides statement u/s 67 NDPS Act. The prosecution case is not at all dependent upon the statement of accused u/s 67. The prosecution able to prove the recovery of contraband irrespective of statement u/s 67 of the accused.

19.Ld. counsel for the accused raised the plea that prosecution case cannot be believed as the independent witnesses Mahinder Kumar and Mrityunjay are not examined. Both these witnesses were summoned number of time however found not traceable thus vide order dated 17.07.2019 stands dropped. In these circumstances, it cannot be held that prosecution did not make any effort to examine the independent witnesses. There is no bar on relying upon the statement of officials. The testimony of PW1 and PW2 found fully credible even corroborated through the defence of the accused. The defence of the accused is only that the bag was broken or mishandled however the said defence is found not credible as discussed. Accused raised pleas of lie detector test or polygraph test in his statement u/s 313 Cr.PC but not even opted to examine himself as defence witness. Thus, in present facts and circumstances no benefit of non examination of independent witnesses could be given to accused.

20.The contraband were sent for chemical examination. As per chemical examination report Ex.PW4/B admissible u/s 293 Cr.PC all the samples mark A1, B1, C1 and D1 were analysed by chemical test, thin layer chromatography, high performance thin layer chromatography and gas chromatography-mass spectrometry for presence of narcotic drugs and psychotropic substances and gave positive test for presence of cocaine and Lidocaine. Lidocaine belongs to a class of drugs known as local anesthetics and cocaine is found to be mixed with the said lidocaine. Delhi High Court in case titled *Abdul Mateen Vs. Union of India & anr. WP Criminal 1552/2010 dated 06.11.2012* held that notification dated 18.11.2009 passed by Central Government by introducing note 4 widens the scope by introducing a mixture of one drug or psychotropic substance with neutral substance. It is not at all necessary that mixture must contain more than one drug or psychotropic substances alongwith neutral material for the said note 4 to apply. Therefore for the purpose of ascertaining the quantity, the entire mixture is to be taken in consideration and in present case the total recovery

is of 2.950 kg of cocaine. Thus the accused is found to be in possession of total quantity of 2.950 kg of cocaine. There is nothing on record to discredit the chemical examination report which is perse admissible u/s 293 Cr.PC.

- 21.Ld. counsel for the accused raised the plea that PW1 stated in panchnama the round shape tins containing drugs were recovered however the said tin boxes were cylindrical in shape therefore creating doubt whether infact the tin boxes produced before the court are the tin boxes which were recovered. This plea is not at all convincing because in common parlance the objects like tin boxes of the present nature could be easily stated to be of round shape. These observations cannot be expected to be with mathematical precision.
- 22.Ld. counsel raised a plea that the search to be conduced after giving notice u/s 50 NDPS Act in presence of gazetted officer or magistrate however that requirement has not been fulfilled therefore the accused is entitled to be acquitted in terms of judgment of *Arif Khan @ Aga Khan vs. State of Uttarakhand 2018 SC 459 and Dharamvir vs. State Crl. Appeal No. 658/2017 dated 13.11.2008 Delhi High Court*. In present case nothing is recovered from the personal search and also from handbag of accused but from the checkin bag which he lifted from the belt and taken to DIAL desk and in these circumstances the formalities required u/s 50 are not to be complied with (relied upon *State of Punjab Vs. Baljinder Singh & Anr. Crl. Appeal No. 1565-66 of 2019 dated 15.10.2019*).
- 23.Ld. Amicus Curiae also raised a plea that IO C.S.K. Singh (PW1) in cross-examination stated that he has not placed on record labels containing the expiry date of chemicals therefore, the testing done at the spot is doubtful. This submission hardly any relevance because thereafter the samples were tested by CRCL laboratory and given positive test for cocaine.
- 24.Bombay High Court in case titled as *Mrs. Khan Rukhsena Banoo Vs. B.S. Rawat, Assistant Collector of Customs, Bombay & Anr. 1994 Crl. L.J 785* held as under:

15. Mr. Nimbalkar submitted that having regard to the statement under Section 108 of the Customs Act in its totality supported by the fact that the appellant did not possess the keys of the suit cases, that the Court would have to hold that she was an innocent carrier. He contended that if the entire story with regard to baggage having been given to her and handed over to her are to be accepted, as it should be, it would establish at the highest, that she agreed to the request to carry the suit cases, that it was not possible for her to know whether there was anything objectionable in the baggage, and therefore on these facts in the present case, there is no evidence to indicate knowledge and conscious possession. In this connection, Mr. Patwardhan drew our attention to the provisions of Section 138-A of the Customs Act which provides for a presumption in relation to items and persons. It is his contention that once possession is established, the legal presumption comes into operation. As regards the provisions of the NDPS Act, Mr. Patwardhan relied upon the provisions of Section 64 of the Act wherein the presumption arises once the aspect of possession is established. He also drew our attention to Section 35 of the Act. We find that there is a specific statutory presumption in relation to contraband, that comes within the ambit of NDPS Act. The law, therefore, makes provisions for certain legal presumptions that arise and for good reason, as otherwise, in our considered view, it would be a stereo-type defence raised in every case where accused are found in possession of contraband, to contend that it was given to her by a third party, that the accused is not concerned with the baggage but is simply an innocent carrier. Experience shows that such statements are made in almost every case. In a large number of instances the racketeers and dealers deliberately pick passengers whom the authorities are least likely to suspect or persons who on the face of it may not appear to be regular smugglers and who are carriers for a small consideration.

16. It is for this reason that the law has made specific provisions under which any person found in possession of substances that come within the ambit of the NDPS Act shall be presumed to have knowledge of the nature of the contraband and the law presumes such guilty knowledge. This provision is undoubtedly harsh but it is still very necessary because in the absence of this provision in all such cases, the defence would be that the accused is an innocent carrier and that consequently, the Court should go back to the principle of conscious possession. To our mind, that principle which may apply to any other cases would not be applicable here in view of the specific provisions of the present Act.

25. Apex court in *Baldev Singh Vs. State of Haryana (2015) 17 SCC 554* held as under-

“13. In Abdul Rashid Ibrahim Mansuri vs. State of Gujarat, AIR 2000 SC 821, this Court has clearly held that where an accused admits that narcotic drugs were recovered from bags that were found in his possession at the time of his apprehension, in terms of Section 35 of NDPS Act the burden of proof is then upon him to prove that he had no knowledge that the bags contained such a substance. This Court then went further on to explain as to the standard of proof that such an accused is expected to discharge and the modes vide which he can discharge the said burden. In paras (21) and (22) of the said judgment, this Court held as under:-

21. No doubt, when the appellant admitted that the narcotic drug was recovered from the gunny bags stacked in the auto rickshaw, the burden of proof is on him to prove that he had no knowledge about the fact that those gunny bags contained such a substance. The standard of such proof is delineated in sub-section (2) as “beyond a reasonable doubt”. If the court, on an appraisal of the entire evidence does not entertain doubt of a reasonable degree that he had real knowledge of the nature of the substance concealed in the gunny bags then the appellant is not entitled to acquittal. However, if the court entertains strong doubt regarding the accused’s awareness about the nature of the substance in the gunny bags, it would be a miscarriage of criminal justice to convict him of the offence keeping such strong doubt undisputed. Even so, it is for the accused to dispel any doubt in that regard.

22. The burden of proof cast on the accused under Section 35 can be discharged through different modes. One is that he can rely on the materials available in the prosecution evidence. Next is, in addition to that, he can elicit answers from prosecution witnesses through cross- examination to dispel any such doubt. He may also adduce other evidence when he is called upon to enter on his defence. In other words, if circumstances appearing in the prosecution case or in the prosecution evidence are such as to give reasonable assurance to the court that the appellant could not have had the knowledge or the required intention, the burden cast on him under Section 35 of the Act would stand discharged even if he has not adduced any other evidence of his own when he is called upon to enter on his defence.”(Emphasis added)

26. On overall appreciation of the evidence on record, the prosecution able to prove that the cocaine around 2.950 kg i.e. commercial quantity found concealed in bag in possession of the accused, therefore, there is presumption under Section 35 and 54 NDPS Act of culpable mental state and conscious possession in favour of prosecution and accused utterly failed to rebut the same either through prosecution evidence or his own explanation. Accordingly, prosecution able to prove its case beyond reasonable doubt. Hence, accused is found guilty for commission of offence under Section 21(c) and 23(c) NDPS Act. Accused **Wesley Derek Williams** is convicted for offence under Section 21(c) and 23(c) NDPS Act.

**Announced in the open court
on this 31st day of October, 2019**

**(Ajay Kumar Jain)
Special Judge NDPS
Patiala House Courts
New Delhi**