

NCB Vs Lalruatsanga & Other

**IN THE COURT OF SH. SUDESH KUMAR II : SPECIAL JUDGE - NDPS
PATIALA HOUSE COURTS : NEW DELHI**

**NCB Vs Lalruatsanga & Other
Case No. SC/8898/16**

11.09.2018

Present: Sh. B.S. Arora, Ld. SPP for NCB.

Accused Lalruatsanga present on bail with Ld. Counsel Sh. Zothankhuma.

Accused R. Lalrempuii present on bail with Proxy Counsel Sh. Tulsi Rane Singh.

1. In this case, PW 1 Naveen Kumar, PW 2 Naren Lohiya, PW 3 Rajesh Kumar, Assistant Commandant, CISF, PW 4 C.S.K. Singh (IO), PW 5 Jai Kishan (superintendent), PW 6 Pradeep Singh (IO), PW 6 Prashant Kumar (Assistant Chemical Examiner, CRCL) (it seems that inadvertently said witness has been examined as PW 6), PW 7 HC Mahender Singh are already examined and discharged. Today, PW/Samrat Chakraborty is present, however, two separate applications have been filed on behalf of both accused for pleading guilty. Ld. Counsels for accused submit that both accused want to plead guilty for the offences charged with.

2. Perusal of the file reveals that these accused namely Lalruatsanga and R. Lalrempuii are facing trial for the contravention of rule/order U/s 9 A and offence punishable U/s 29 of NDPS Act as well as contravention of rule/order U/s 9 A and offence punishable U/s 25 A r/w section 29 of NDPS Act.

3. It is stated by Ld. Defence Counsels Sh. Zothankhuma and Sh. Tulsi Rane

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Singh that both accused want to plead guilty and they are prepared to face all the consequences and their statements may be recorded. Court has granted sometime to both accused to reflect upon their decision and they have stated before the court that they wish to stick by their decision to plead guilty.

4. In view of the same, statement of accused Lalruatsanga and R. Lalrempuii have been recorded separately in which they have pleaded guilty. They have also mentioned about the circumstances in which the offences were committed and the mitigating circumstances which the Court may take into consideration while sentencing them. Accused Lalruatsanga submits that he has remained in custody for 13 months and 28 days in the present case. Accused R. Lalrempuii submits that she has also remained in custody for 6 months and 3 days in the present case.

5. As per the case of the prosecution, on or before 30.10.2013, both accused entered into a criminal conspiracy to illegally transport pseudoephedrine hydrochloride, a controlled substance from New Delhi to Kolkata by flight no. A1-401. It is also alleged that on 30.10.2013 at about 1330 hours at level-4, Terminal 3, IGI Airport, New Delhi, the officers of Air India commercial handed over two baggages belonging to both of them to the officials of NCB and both the said bags on opening were found containing 28 kg of 'pseudoephedrine' in total and they had kept the said contraband in the said bags.

6. In view of the voluntary plea of guilt of the accused Lalruatsanga and R. Lalrempuii, they are convicted for contravention of rule/order U/s 9 A and offence punishable U/s 29 of NDPS Act as well as contravention of rule/order U/s 9 A and offence punishable U/s 25 A r/w section 29 of NDPS Act.

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7. Ld. SPP for NCB Sh. B.S. Arora has contended that appropriate sentence may be imposed on the convicts.

8. Ld. Defence Counsels have contended that both the convicts belong to the poor strata of the society and they got involved in the present case due to extreme poverty. It is stated that parents of convict Lalruatsanga have expired. He is the only sole bread earner. He has two younger sisters to look after. His wife has also expired. He was working as a 'mechanic' in two wheeler automobile workshop. The convict R. Lalrempuii is unmarried. She is a lady aged about 29 years. Her parents have separated. She is only residing with her mother. She was doing part time job as 'waitress'. The convicts were only carriers. Ld. Counsel for convicts pray for mercy and request that a lenient view may be taken. The convicts were not previously involved in any other case. The convicts undertake not to indulge in any illegal activity in future.

9. I have given careful consideration to the submissions made by the Ld. Counsels. Dealing with the issue of sentencing, the Hon'ble Supreme Court in another case titled and reported as **Karamjeet Singh Vs. State (Delhi Admn.) (2001) 9SCC 161** has made the following observations:

Punishment in criminal cases is both punitive and reformative. The purpose is that the person found guilty of committing the offence is made to realise his fault and is deterred from repeating such acts in future. The reformative aspect is meant to enable the person concerned to relent and repent for his action and make himself acceptable to the society as a useful social being. In determining the question of proper punishment in a criminal case, the court has to weigh the degree of

culpability of the accused, its effect on others and the desirability of showing any leniency in the matter of punishment in the case. An act of balancing is, what is needed in such a case; a balance between the interest of the individual and the concern of the society; weighing the one against the other. Imposing a hard punishment on the accused serves a limited purpose but at the same time, it is to be kept in mind that relevance of deterrent punishment in matters of serious crimes affecting society should not be undermined. Within the parameters of the law an attempt has to be made to afford an opportunity to the individual to reform himself and lead the life of a normal, useful member of society and make his contribution in that regard. Denying such opportunity to a person who has been found to have committed offence in the facts and circumstances placed on record would only have a hardening attitude towards his fellow beings and towards society at large. Such a situation, has to be avoided, again within the permissible limits of law.

10. The aforementioned judicial dicta therefore makes it clear that the sole purpose of punishing an offender is not retribution alone and that the courts while sentencing an offender must make an attempt, within the parameters of the law, to afford an opportunity to the offender to reform himself/herself and lead the life of a normal, useful member of society. In the present case, the convicts have no previous criminal antecedents and it does appear from the totality of the attendant circumstances and material on record that they are not hardened criminals. They might have been forced due to their economic condition to indulge in the illegal trafficking of controlled substance. No doubt poverty is not a justification for commission of crimes but in the considered opinion of this court, imposing a harsh

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sentence will also not subserve the interests of justice. Also, the substance in question is neither narcotic drug nor psychotropic substance but it is a controlled substance as defined under Section 2 (vii) (d) of the NDPS Act. Rigour of Section 37 of the NDPS Act is not attracted in the present case. No minimum punishment has been prescribed for the possession of the aforesaid contraband substance. Thus taking into consideration the nature of offences and social as well as economic status of the convicts and the reason for which they appear to have committed the offences, this court hereby sentences both the convicts namely Lalruatsanga and R. Lalrempui to undergo rigorous imprisonment for the period already undergone by them and to pay a fine of Rs. 20,000/- each and in default thereof to undergo simple imprisonment for a period of one month. Fine not paid. Benefit of section 428 Cr. PC be given to convicts.

11. In view of the provisions of Section 437 A Cr. PC, both convicts are directed to furnish bond in a sum of Rs. 20,000/- each with one surety of like amount. Convicts seek some time for depositing fine amount as well as furnishing bond U/s 437 A Cr. PC. As requested, put up for same on 30.10.2018 at 2 PM as it is submitted by convicts that they have to visit their native place at 'Mizoram'. Both the applications stand disposed of accordingly. Witness present stands discharged.

12. The case property stands confiscated to the NCB and that they will be at liberty to dispose the same as per the prescribed rules after the expiry of period of appeal/revision.

Copy of this judgment and sentence be given to the convicts.

**Announced in the open Court
on this 11th day of September, 2018**

**(Sudesh Kumar II)
Special Judge: NDPS/New Delhi**