

ORDER SHEET

IN THE HIGH COURT OF SINDH, CIRCUIT COURT, HYDERABAD

Cr. S.M. Revision No.D-67 of 2004

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DATE

ORDER WITH SIGNATURE OF JUDGE

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For hearing of main case.

**12.09.2019.**

Mr. Shahzado Saleem Nahiyoan, D.P.G.

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Facts leading to passing of instant order are that the private respondent was found to be in possession of 4500 grams of the opium by Excise Police DIO Sukkur Camp at Sakrand, as such he was booked and reported upon.

2. At trial, the private respondent moved an application for expeditious disposal of his case with Hon'ble High Court of Sindh. In the meanwhile, vide order dated 29.05.2002 learned Sessions Judge / CNS Judge Nawabshah recorded acquittal of the private respondent u/s 249-A Cr.P.C. Such acquittal of the private respondent was examined by Hon'ble High Court of Sindh, which led to institution of instant suo-motu revision application.

3. The private respondent defeated the service of notice upon him successfully, therefore, by considering the age of the instant suo-motu revision application, it was decided by this Court to dispose of the same, on merits after hearing learned D.P.G for the State as the hearing to private respondent in case like present one is optional as is prescribed by section 440 Cr.P.C.

4. It is contended by learned D.P.G for the State that the case of the prosecution was supported strongly in shape of recovery of contraband substance and it was not liable to its disposal in shape of acquittal of the private respondent without recording evidence. By contending so, he sought for setting aside of the order of learned Sessions Judge / CNS Judge, Nawabshah, whereby the private respondent has been acquitted.

5. We have considered the above arguments and perused the record.

6. The case of the prosecution against the private respondent was supported strongly in shape of recovery of huge quantity of contraband substances. In that situation, the acquittal of the private respondent without recording evidence on the basis of unreasonable observation by learned trial Court was not justified. It was illegal and against the principals of fair trial, as such same could not be sustained, it is set-aside. Consequently, the matter is remanded to learned trial Court with direction to proceed with it afresh and in accordance with law.

7. The instant suo-motu revision application is disposed of accordingly.

**J U D G E**

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