



IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NOS.2836-2837 OF 2025

STATE OF PUNJAB

...Appellant(s)

Vs.

GURNAM @ GAMA ETC.

...Respondent(s)

O R D E R

(1) The appellant-State of Punjab is before this Court impugning the judgment of the High Court¹ by which the criminal appeals² filed by the respondents were allowed³ and the judgment⁴ of the Trial Court⁵ convicting the respondents was set aside. It relied upon the judgment of this Court in the case of *Mohan Lal v. State of Punjab*⁶ wherein it was held that fair investigation, which is the foundation of fair trial, postulates that the informant and investigator must not be the same person.

(2) We may analyze the facts in brief. A secret

¹ High Court of Punjab and Haryana at Chandigarh

² CRA No.12/2011 and CRA No.786/2011

³ Dated 11.12.2018

⁴ Dated 11.12.2010

⁵ Challan No.322 of 2010

⁶ (2018) 17 SCC 627 : 2018 INSC 714

information was received on 20th September, 2009 that *poppy husk* was being transported in a truck. A truck bearing registration No.PIX 0146 was stopped. Gurnam Singh alias Gama was found to be sitting on the stack of bags in cargo portion of the truck, while Jaswinder Singh was driving the truck. Both are the respondents in these two appeals. On search, 750 kilograms of poppy husk was found along with two motorcycles. First Information Report (FIR) No.221 of 2009 was registered. After trial, the respondents were convicted and vide judgment dated 11th December, 2010, they were directed to undergo RI for a period of 12 years and to pay a fine of ₹ 1,00,000/- (Rupees one lakh) each.

(3) Aggrieved against the judgment of the Trial Court, the respondents preferred Criminal Appeal Nos.D-12-DB of 2011 and D-786-DB-2011 before the High Court. When the appeals were taken up for hearing, relying upon the judgment of this Court in the case of *Mohan Lal's* case (supra) and without discussing the merits of the controversy, the same were allowed. The conviction of the respondents was set aside.

(4) The aforesaid common judgment of the High Court is under challenge before this Court by the appellant-State of Punjab.

(5) Learned counsel for the appellant submitted that

after the judgment of this Court in *Mohan Lal's case (supra)*, in the case of *Varinder Kumar v. State of H.P.*⁷, a three Judge Bench of this Court clarified the position, as was held in *Mohan Lal's case (supra)*, that all pending criminal prosecution, trials and appeals prior to the law laid down in *Mohan Lal's case (supra)* shall continue to be governed by the individual facts of the case. In the case in hand, the appeals were pending before the High Court prior to the law laid down in *Mohan Lal's case (supra)*. In fact, the appeals were decided on 11th December, 2018 i.e. after the aforesaid judgment was delivered on 16th August, 2018.

(6) She has further referred to a Constitution Bench judgment of this Court in the case of *Mukesh Singh v. State (Narcotics Branch of Delhi)*⁸, delivered on 31st August, 2020, reference was made to a larger Bench regarding correctness of the judgment of this Court in *Mohan Lal's case (supra)*. The opinion expressed by the Constitution Bench of this Court was that there is no reason to question the credibility of the informant and doubt the entire case of the prosecution solely on the ground that the informant had investigated the case. The submission is that in the case in hand, the acquittal by the High Court was solely on the

7(2020) 3 SCC 321 : 2019 INSC 170

8(2020) 10 SCC 120 : 2020 INSC 524

ground that investigator and the prosecutor was the same person.

(7) Referring to the credentials of the respondents, learned counsel for the appellant has produced a list of cases in which the respondent (Gurnam @ Gama) in Criminal Appeal No.2836 of 2025 was involved. In some of them, he was convicted, whereas in some, he was acquitted. Trial in few cases is still pending. It was argued that there were two FIRs against Gurnam @ Gama prior to the registration of the FIR in question whereas 11 FIRs were registered after that, out of which 7 were under the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, "the NDPS Act") whereas 4 were under other different statutes such as Indian Penal Code, 1860 and the Punjab Good Conduct Prisons Temporary Release Act, 1962. He was convicted in 5 FIRs, acquitted in 3 and trial in 2 FIRs is still pending. From the list, it is evident that 2 FIRs in which the trial is pending were in fact registered after the acquittal in the case in question. Both are under the NDPS Act. The list as furnished by her is extracted below:

CRIMINAL ANTECEDENTS OF THE RESPONDENT – GURNAM @ GAMA

S.No.	FIR Details	Relevant Sections	Recovery	Status
1.	FIR 467 dated 01.12.2003 at PS Jhajjar, Haryana	15 of NDPS Act, 1985	-	-
2.	FIR 75 dated 06.05.2008 at PS Noor Mehal District	15 of NDPS Act, 1985	69 Kg Poppy Husk	Acquitted on 30.11.2010

	Jalandhar, Punjab			
3.	FIR 221 dated 20.09.2009 at PS Division 08, District Jalandhar Punjab	15 of NDPS act, 1985	730 Kg Poppy Husk	Convicted on 11.12.2010 by Judge Special Court, Jalandhar, Acquitted and released on 11.12.2018 by Hon'ble High Court
4.	FIR 16 dated 18.02.2012 at PS Noor Mehal District Jalandhar Punjab	15 of NDPS act, 1985	240 Kg Poppy Husk	Acquitted on 09.11.2015
5.	FIR 95 dated 22.12.2012 at PS Noor Mehal District Jalandhar Punjab	8(2), 9 Punjab Good Conduct Prisons act Temporary Release Act, 1962	-	Convicted on 22.10.2014
6.	FIR 166 dated 20.06.2013 at PS Phguillaur District Jalandhar Punjab	15 of NDPS act, 1985	1200 Kg Poopy Husk	Convicgted on 28.07.2016
7.	FIR 86 dated 10.09.2013 at PS Noor Mehal District Jalandhar Punjab	15 of NDPS act, 1985	08 Kg 500 g Poppy Husk	Convicted on 09.11.2015
8.	FIR 101 dated 14.10.2015 at PS Bilga District Jalandhar Punjab	15 of NDPS Act, 1985	1120 Kg Poppy Husk	Acquitted on 09.11.2016
9.	FIR 43 dated 27.03.2013 at PS Adampur District Jalandhar Punjab	379, 411 of IPC, 1860	-	Acquitted on 05.03.2016
10.	FIR 248 dated 29.08.14 at PS Phillaur, District Jalandhar Punjab	353, 186, 332 of IPC, 1860	-	Convicted on 06.10.2016
11.	FIR 14 dated 03.02.2017 at PS Khamano District Fatehgarh Sahib Punjab	15 of NDPS Act, 1985	270 Kg. Poppy Husk	Under Trial 01.07.2017
12.	FIR 116 dated 02.06.2016 at PS Kotwali District Kapurthala, Punjab	52 A Prison Act	-	Convicted on 22.09.16
13.	FIR 143 dated 23.10.2020 at PS Chabbewal, District Hoshiarpur, Punjab	21(c) NDPS Act, 1985	-	Lodged in Hoshiarpur Jail
14.	FIR 20 dated 25.03.2021 at PS Noor Mehal District Jalandhar Punjab	21(a), 22(b), 29 of NDPS Act, 1985	4g Heroin, 170 Intoxicant Tablets	Under Trial 08.07.2021

(8) The submission is that seeing the conduct of the respondent (Gurnam @ Gama) he did not deserve any concession from the Court purely on technicalities.

(9) As far as the respondent (Jaswinder Singh) in Criminal Appeal No.2837 of 2025 is concerned, the submission is that she does not have any information/details about his antecedents after the FIR in question was registered.

(10) On the other hand, learned senior counsel for the respondents submitted that the judgment in *Mohan Lal's* case (*supra*) was delivered on 16th August, 2018 and it was the law on that day and relying upon the same, the High Court had acquitted the respondents vide impugned judgment dated 11th December, 2018. Any subsequent opinion by the Court cannot have retrospective operation. Hence, the acquittal of the respondents cannot be turned down.

(11) He raised serious objections to the production of antecedents of the respondent - Gurnam @ Gama by the learned counsel for the appellant in Court stating that the same has not been furnished along with any affidavit. Hence, these cannot be referred to and relied upon.

(12) Heard learned counsel for the parties and perused the material placed on record. The facts of the case are not required to be given in detail, as perusal of

the impugned judgment of the High Court by which the respondents were acquitted shows that the evidence led before the Trial Court was not considered or appreciated. The acquittal was solely on the principle of law laid down by this Court in *Mohan Lal's case (supra)*.

(13) The judgment in *Mohan Lal's case (supra)* was delivered by this Court on 16th August, 2018. The High Court judgment in favor of the respondents is dated 11th December, 2018. Thereafter, the Special Leave Petitions were filed with delay. However, the delay was condoned and the leave was granted. After the judgment of the *Mohan Lal's case (supra)*, a three-Judge Bench of this Court in *Varinder Kumar's case (supra)* clarified the position with reference to *Mohan Lal's case (supra)* in paragraph 18 of the judgment. The same is extracted below:

“18. The criminal justice delivery system, cannot be allowed to veer exclusively to the benefit of the offender making it unidirectional exercise. A proper administration of the criminal justice delivery system, therefore, requires balancing the rights of the accused and the prosecution, so that the law laid down in *Mohan Lal* is not allowed to become a springboard for acquittal in prosecutions prior to the same, irrespective of all other considerations. We, therefore, hold that

all pending criminal prosecutions, trials and appeals prior to the law laid down in *Mohan Lal* shall continue to be governed by the individual facts of the case."

(14) A perusal of the aforesaid opinion expressed by this Court shows that the rights of the accused and the prosecution are required to be balanced and the judgment in *Mohan Lal's* case (*supra*) could not be allowed to be a springboard for acquittal in prosecutions prior to the same, irrespective of all other considerations. It was held that all pending criminal prosecutions, trials and appeals prior to the law laid down in *Mohan Lal's* case (*supra*) shall continue to be governed by the individual facts of the case. It is not in dispute that in the case in hand the appeals were pending before the judgment in *Mohan Lal's* case (*supra*) was delivered. Thereafter, the matter was taken to this Court where the same is pending.

(15) Further, we may add that the opinion expressed in *Mohan Lal's* case (*supra*) was doubted and the matter was referred to the Constitution Bench (*Mukesh Singh's* case (*supra*)) where the opinion expressed by this Court in *Mohan Lal's* case (*supra*) was held to be not a good law and overruled. Para 12.(II) whereof is extracted below:

"12.(II) In a case where the informant himself is the investigator, by that itself

cannot be said that the investigation is vitiated on the ground of bias or the like factor. The question of bias or prejudice would depend upon the facts and circumstances of each case. Therefore, merely because the informant is the investigator, by that itself the investigation would not suffer the vice of unfairness or bias and therefore on the sole ground that informant is the investigator, the accused is not entitled to acquittal. The matter has to be decided on a case-to-case basis. A contrary decision of this Court in *Mohan Lal v. State of Punjab* and any other decision taking a contrary view that the informant cannot be the investigator and in such a case the accused is entitled to acquittal are not good law and they are specifically overruled."

(emphasis supplied)

(16) We may notice the argument raised by the learned senior counsel for the respondents that any judgment will not have retrospective effect. In our opinion, nothing hinges on that. Courts only interpret law and do not enact law. In the case in hand, the judgment of Mohan Lal's case (supra) prevailed when the High Court decided the appeals. However, thereafter, the matter is pending in this Court and since appeals are continuation of proceedings, the law as

available today is to be applied. The acquittal of the respondents in the present case was merely on technical ground in view of *Mohan Lal's* case (*supra*) which was diluted in Varinder Kumar's case (*supra*) and then overruled subsequently by the Constitution Bench of this Court in Mukesh Singh's case (*supra*).

(17) Hence, in our opinion, the appeals deserve to be allowed. Ordered accordingly. The impugned judgment of the High Court is set aside and the matter is remitted back to the High Court for consideration on merits.

(18) Keeping in view that the appeals pertain to the year 2010, High Court is requested to expedite the hearing thereof.

(19) Pending applications, if any, shall also stand disposed of.

.....J.
(RAJESH BINDAL)

.....J.
(AUGUSTINE GEORGE MASIH)

NEW DELHI;
July 30, 2025