

INTHEHIGHCOURTOFMADHYAPRADESH
BENCHATINDORE

(SB: Hon'ble Mr. Justice Alok Verma)

CRRNo.675/2015

Golu @ Narendra and others

Vs.

State of MP

Shri A. K. Saraswat, learned counsel for the applicant.
Ms. Mini Ravindran, learned counsel for the respondent/State

JUDGMENT

(Delivered on this 27th day of July, 2015)

This criminal revision is directed against the order passed by learned 12th Additional Sessions Judge, Indore in Sessions Trial No.02/2011 dated 22.05.2015 wherein learned Additional Sessions Judge dismissed the application filed by the defence on 29.11.2011 praying thereby that the seized Ganja should be weighed before the Court so that real quantity of Ganja should be ascertained.

In this case, it is admitted that green plants were seized from possession of the present applicant. At passage of time, plants lost moisture and also the weight and accordingly, it is now prayed that seized substance be weighed before the Court to assess real weight of Ganja.

Learned counsel for the applicant submits that according to the definition given in the Clause III (b) of Section 2 of the NDPS Act, Ganja is flowering or footing tops of Cannabis plant. However, in this case, the plants including stams and leaves were seized which do not form Ganja as per the definition.

Learned counsel for the applicant places reliance on the order of Co-ordinate Bench of this Court in the case of **Virendra Kumar Vs. State of MP** reported in 2012 (2) EFR 117 and submits that only flower and footing tops found Ganja and quoted the case of **E. Micheal Raj Vs. Intelligence Officer, Narcotic Control Bureau** reported in 2008 Cr.L.J. 2250. He submits that for determining quantity of contraband, only flowers and footing tops should be taken into consideration but he candidly submits that if the whole substance allegedly seized from his possession is

weighed, his purpose would be served.

Learned counsel for the State supported the order passed by the Additional Sessions Judge on the ground that there is no provision in the act for weighing the seized substance and submits that the revision may be dismissed.

After going through the material available on record, in the considered opinion of this court, there appears to be no harm if the substance as it stands today, is weighed before the Court.

Accordingly, this revision is allowed. It is directed that the substance may be weighed before the Special Judge and necessary memorandum may be prepared in presence of both the counsel. The matter then be disposed of according to relevant provision of law.

With the observation and direction as above, the revision stands disposed of.

C.c as per rules.

(Alok Verma)
Judge

