

2022 LiveLaw (SC) 990

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

B.R. GAVAI; J., VIKRAM NATH; J.

CRIMINAL APPEAL NO(S). 959/2012; NOVEMBER 23, 2022

THE STATE OF HIMACHAL PRADESH *versus* ANGREJO DEVI & ORS.

Narcotic Drugs and Psychotropic Substances Act, 1985; Section 2(xvii) - Once it is found that the seized material contain 'morphine' and 'meconic acid' it is sufficient to establish that the seized material comes within the definition of Section 2(xvii) of the NDPS Act (opium poppy). Followed *State of Himachal Pradesh vs. Nirmal Kaur alias Nimmo*, [2022 LiveLaw \(SC\) 866](#). (Para 3-4)

WITH CrI.A. No. 957/2012 CrI.A. No. 958/2012 CrI.A. No. 2040/2022 @ SLP(CrI) No. 761/2014

Amicus Curiae Mr. K. Parameshwar, Sr. Adv. Ms. Arti Gupta, Adv.

For Appellant(s) Mr. Abhinav Mukerji, AOR (AAG/Himachal Pradesh) Ms. Bihu Sharma, Adv. Mr. Akshay C. Shrivastava, Adv. Ms. Pratiksha Vij, Adv.

For Respondent(s) Ms. Aishwarya Bhati, ASG Mr. Jayant K Sud, ASG Ms. Sonia Mathur, Sr. Adv. Mr. Sanjay Kumar Tyagi, Adv. Mr. G.S. Makker, Adv. Mr. Arvind Kumar Sharma, AOR Mr. Sanjay Kumar Tyag Adv. Mr. Rajan Kumar Chourasia Adv. Mr. Madhav Sinhal Adv. Mr. Neeraj Jain, Sr. Adv. Ms. Nidhi, AOR Mr. Avijit Mani Tripathi, AOR Mr. R. Nedumaran, AOR

ORDER

1. Leave granted in SLP(CrI) No.761/2014.
2. The High Court basically allowed the appeals on the ground that the prosecution has failed to establish that the seized material is not the genesis of a plant of *Papaver somniferum* L or any other plant, which is notified by the Central Government under Section 2(xvii) of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, 'NDPS Act').
3. On a reference, this Court in **State of Himachal Pradesh v. Nirmal Kaur alias Nimmo and Others**, reported in **2022 SCC Online SC 1462**, has decided the issue and it has been held that once it is found that the seized material contain '*morphine*' and '*meconic acid*' it is sufficient to establish that the seized material comes within the definition of Section 2(xvii) of the NDPS Act.
4. In that view of the matter, the impugned judgments and orders are quashed and set aside and the cases are remitted back to the High Court to consider the same afresh, in accordance with the judgment of this Court rendered in ***Nirmal Kaur alias Nimmo and Others (supra)***.
5. The sentence imposed on the respondents herein are suspended till the High Court decides the matters on merits.
6. The appeals are allowed in the aforesaid terms.
7. Pending application(s), if any, shall stand disposed of.