

**P L D 1981 Supreme Court 352**

Present: Karam Elahee Chauhan and Muhammad Afzal Zullah, JJ  
ABDUL HAFEEZ Petitioner  
versus  
THE STATE-Respondent

Criminal Petition for Special Leave to Appeal No. 130 of 1981,, decide' on 4th May, 1981.

(On appeal from the judgment and order of the Lahore High Court, dated 9-2-1981, in Cr. A. 194 of 1979).

(u) Drugs Act (XXXI of 1976)-

-- S. 27 read with S. 31 and Criminal Procedure Code (V of 1898), Ss. 435 & 439-Revisional jurisdiction of High Court-Word "inferior" in S. 435, Criminal Procedure Code, 1898-Means judicially inferior Court whose orders subjected to appeal to another independent and separate Court, held, inferior to appellate Court.-[Words and phrases].  
Nobin Kristo Mookerjee v. Russick Lall Laha I L R 10 Cal. 268 ref.

(b) Drugs Act (XXXI of 1976)-

Ss. 27 & 31 and Criminal Procedure Code (V of 1898), Ss. 295, 435 & 439-Word "subordinate" and "inferior"-Revisional jurisdiction of High Court - Word "inferior" substituted in ' S. 435 for word "subordinate" appearing in S. 295 in order to keep hands of High

Court quite free in dealing with a case in its ultimate stage of revision etc.-Drugs Court having been made subject to appellate jurisdiction of High Court, and, in such sense, inferior to High Court, High Court, held, could exercise revisional jurisdiction against orders of Drugs Court-Having made Drugs Court judicially inferior to High Court, no necessity held further, existed for duplicating matter over again by expressly providing for a revisional jurisdiction of High Court.[Words and phrases-Revision (criminal)].

(c) Criminal Procedure Code (V of 1898)-

-- S. 6 read with Constitution of Pakistan (1973), Art. 175-Criminal Courts-Classes of Criminal Courts as given in S. 6, Criminal Procedure Code, i 898-Not exhaustive-Section 6 itself contemplates constitution of such other Courts as may be constituted under any law other than Criminal Procedure Code, 1898, and Constitution also envisages Constitution of other- Courts by law.-[Interpretation of statutes].

Abdoola Haroon & Co. v. Corporation of Calcutta A I R 1950 Cal. 36:

Ram Gopal Goenka v. Corporation of Calcutta A I R 1925 Cal. 1251; Naga v. King-Emperor A I R 1924 Rang. 23; Kamlapati Panth and others v. Emperor A I R 1926 All. 27; Dhirjoo v. Kamna and another A I R 1950 Hima. Pra. 40 and Mirza Gulzar Beg v. The Station House Officer, Railway Police and others P L D 1977- Lah. 435 ref.

(d) Drugs Act (XXXI of 1976)-

-- Ss. 2 & 39 read with Criminal Procedure Code (V of 1898), Ss. 435 & 439-Finality of orders of Drugs Court envisaged in S. 39-Word "final"--Connotation-Finality .attached to orders of Drugs Court Subject to any other provision providing otherwise-Such provision in case in hand: incident of Drugs Court being inferior to High Court by virtue of its orders having been made appealable to High Court Section 2 of Act not barring application of other laws and provisions of Act having been made subject to "any other law for the time being in force", Ss. 435 & 439, Criminal Procedure Code, 1898 fully attracted to Drugs Court.-[Words and phrases-Interpretation of statutes].

(e) Drugs Act (XXXI of 1976)-

Ss. 27 & 31 read with Criminal Procedure Code (V of 1898), Ss. 435 & 439-Revisional jurisdiction of High Court in cases under Drugs Act High Court, held, simultaneously a Court of

appeal as well as revision and can not only exercise appellate powers but also those under S. 439 and can enhance sentence passed by Drugs Court.-[Revision (criminal)-Sentence].

(f) Drugs Act (XXXI of 1976)--

Ss. 27-Spurious drug-Drug purporting to be a particular drug but not containing its active ingredients-A spurious drug--Government Analysts' report proving drug kept in store for sale and sold by petitioner not containing relevant ingredients but some other powders Petitioner though given a sample but not proving drug to have contained necessary components and being genuine and not spurious Contention as to drug in question having not been proved to be spurious, held, not maintainable in circumstances.

(g) Criminal Procedure Code (V of 1898)-

S. 439-Revision-Enhancement of sentence-Assumption raised by lower Court in awarding lesser sentence factually baseless-High Court finding no sufficient cause enhancing sentence nor any such cause shown in proceedings before. Supreme Court-Order of High Court enhancing sentence not sufferig from any legal or factual mistake, held, calls for no interference in circumstances.-[Sentence].

Sardar Attaullah, Advocate Sunreme Court, Munir Ahmad Bhatti, Advocate Supreme Court and Mahmood A. Qureshi, Advocate-on-Record for Petitioner.

Nemo for the State.

Date of hearing: 4th May, 1981.