

P L D 2004 Supreme Court 394

Present: Nazim Hussain Siddiqui, C.J.,

Syed Deedar Hussain Shah and Abdul Hameed Dogar, JJ

KARL JOHN JOSEPH---Petitioner

Versus

THE STATE---Respondent

Criminal Petition for Leave to Appeal No. 108-K of 2003, decided on 6th February, 2004.

(On appeal from the judgment/order of the High Court of Sindh at Karachi, dated 18-12-2003, passed in Criminal Appeal No.198 of 2003).

(a) Control of Narcotic Substances Act (XXV of 1997)-----

---S. 9(c)---Constitution of Pakistan (1973), Art.185(3)---Petition for leave to appeal---Explanation furnished by the prosecution being convincing and natural, non-joining of private persons as Mashirs of recovery was of no consequence---Case of accused was distinguishable from that of acquitted co-accused as according to prosecution version the boat from which "Charas" was recovered belonged to the accused and not to the said co-accused---High Court had considered the case in its proper perspective without any misreading or non-reading of the material and the impugned judgment was- based on proper appreciation of facts and law---Requirement-of search warrant could be dispensed with if the same could not be possibly obtained from the Court before conducting the search ---A.N.F. Officials, in the circumstances of the case, could not obtain the search warrants from the Court and the complainant, therefore, was competent to search the boat without search warrant---Leave to appeal was refused to accused in circumstances.

Fida Jan v. The State 2001 SCMR 36 ref.

(b) Control of Narcotic Substances Act (XXV of 1997)--

---S 20---Issuance of search warrants---Provisions of S.20 of the Control of Narcotic Substances Act, 1997, being directory in nature, non-compliance thereof cannot be considered a strong ground for making the trial of accused bad in the eye of law.

Fida Jan v. The State 2001 SCMR 36 ref.

Rana M. Shamim, Advocate Supreme Court and Ms. Wajahat Niaz, Advocate-on-Record for Petitioner.

Nemo for Respondent

Date of hearing: 6th February, 2004.