

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). 959/2012

THE STATE OF HIMACHAL PRADESH

APPELLANT(S)

VERSUS

ANGREJO DEVI & ORS.

RESPONDENT(S)

WITH

CrI.A. No. 957/2012

CrI.A. No. 958/2012

CrI.A. No. 2040/2022 @ SLP(CrI) No. 761/2014

O R D E R

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.

.....J
(B.R. GAVAI)

.....J
(VIKRAM NATH)

NEW DELHI
NOVEMBER 23, 2022

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

CRIMINAL APPEAL NO(S). 959/2012

THE STATE OF HIMACHAL PRADESH

APPELLANT(S)

VERSUS

ANGREJO DEVI & ORS.

RESPONDENT(S)

WITH

Crl.A. No. 957/2012 (II-C)
(IA No. 4276/2009 - STAY APPLICATION)

Crl.A. No. 958/2012 (II-C)

SLP(Crl) No. 761/2014 (II-C)
(IA No. 1913/2014 - STAY APPLICATION)

Date : 23-11-2022 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.R. GAVAI
HON'BLE MR. JUSTICE VIKRAM NATH

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

UPON hearing the counsel the Court made the following
O R D E R

Leave granted in SLP(Crl) No.761/2014.

The appeals are allowed, in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(NARENDRA PRASAD)
ASTT. REGISTRAR-cum-PS

(ANJU KAPOOR)
COURT MASTER (NSH)

(Signed order is placed on the file)