

(9)

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

CRIMINAL REVISION NO. 93 /2004

APPLICANT
(IN JAIL)

Sonuram, S/o. Ghasiaram,
aged about 50 years.
R/o. Gram-Tadhoor, Pankhajur,
District - Kanker (C.G.)

VERSUS

NON-APPLICANT

State of Chhattisgarh
Through P.S.-Pankhajur

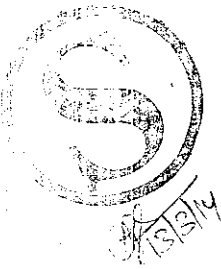
CRIMINAL REVISION UNDER SECTION 397/401 OF THE CODE
OF CRIMINAL PROCEDURE

SENTENCE

634/07

Filed on 10/2/07
By Sri. M. S. D. R. (J)

10/2/07



HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench : Hon'ble Shri Justice P. Sam Koshy

Criminal Revision No. 93 of 2004

Applicant

Sonuram

VERSUS

Respondent

State of Chhattisgarh

Shri Ravi Bhagat, counsel for the applicant.
Shri Arvind Shukla, P.L. for the State.

**CRIMINAL REVISION UNDER SECTION 397/401 OF THE
CODE OF CRIMINAL PROCEDURE**

O R D E R

(05.03.2014)

By way of the instant criminal revision, the applicant has challenged the judgment dated 07.02.2004 passed by third Additional Sessions Judge (F.T.C), Kanker in Criminal Appeal No.11/2002.

2. Facts leading to the instant case are that on 17.03.1995 Assistant Sub-Inspector Harinandan Singh (PW-4) had gone to village Konde where he received information that the applicant was in illegal possession of a gun which he was using for hunting wild animals and also for threatening the villagers. Acting upon the said information, PW-4 reached the home of the applicant and on enquiry the applicant produced a loaded gun which he kept without any license. The said gun was seized by the police in presence of witnesses Manuram God (PW-1) and Sonsai Kawde (PW-2). On completion of



investigation, a case for the offence under Section 25/27 of Arms Act was registered against the applicant and the matter was put to trial before the Court of Judicial Magistrate First Class in Criminal Case No.135/96.

3. After concluding trial, the trial Court vide its judgment dated 11.12.2001 found the applicant guilty for the offence punishable under Section 25 (1B) (a) of Arms Act and accordingly convicted the applicant under the said section and sentenced him to undergo RI for one year with fine of Rs.200, in default of payment of fine to further undergo RI for three months.

4. This order dated 11.12.2001 was subjected to challenge in Criminal Appeal No.11 of 2002 wherein the the first appellate Court also after considering the total facts and circumstances of the case reached to the conclusion that the finding arrived at by the trial Court is purely on the basis of the evidences that have come on record and that it cannot be said that the prosecution has not been able to prove its case beyond reasonable doubt. Accordingly, the first appellate Court also vide its judgment dated 07.02.2004 affirming the judgment of conviction and sentence passed by the trial Court dismissed the appeal preferred by the applicant.

5. It is this judgment dated 07.02.2004 which is under challenge in the instant criminal revision.

6. Counsel for the applicant submits that the gun which is said to have been seized from the applicant has not been



subjected to examine by an expert and it is only PW-3 who is a Head Constable has examined and verified the gun and has given a report Ex. P-2. He further submits that at the time of incident, the applicant was 50 years old and by now he has reached the age of about 70 years and the area from where the applicant hails is a remote tribal village, therefore, the case of the applicant may be considered sympathetically.

7. Per contra, counsel for the State submits that in fact the I.O. (PW-4) has given a statement before the Court explaining the circumstances the loaded gun was seized from the possession of the applicant and it was he who had gone with seizure witnesses on the said day when the applicant was in possession of the illegal arms. He submits that the prosecution case that has been led by PW-4 is fully corroborated by the two seizure witnesses namely Manuram God (PW-1) and Sonsai Kawde (PW-2) who are the independent witnesses hailing from different villages and there is no reason whatsoever to disbelieve the statement of PW-4 and also PW-1 & PW-2. Further contention of the counsel for the State is that the Head Constable Ram Sajiwan (PW-3) has also given a report Ex. P-2 from which it has been established that he has examined the loaded gun along with live gun powder recovered from the applicant and the said gun was in working condition. He further submits that the case of the prosecution having been proved beyond reasonable doubt does not call for any interference and therefore the instant

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revision deserves to be dismissed.

8. Heard counsel for the parties and perused the evidence available on record.

9. Considering the rival contentions put forth by the counsel of either side and also taking into consideration the evidence of PW-1 and PW-2, the seizure witnesses who have fully supported the prosecution case and the report Ex. P-2 given by the Head Constable (PW-3), I am of the opinion that the Court below has rightly convicted the applicant for the offence under Section 25 (1B) (a) of Arms Act. Thus, the impugned judgment being just and proper does not call for any interference by this court and the same is hereby confirmed.

10. As regards the request of the counsel for the applicant for considering the case of the applicant sympathetically looking to the fact that the incident had taken place about 19 years back and the applicant has now reached to the age of about 70 years, I am of the opinion that the said request cannot be accepted for the reason that the minimum sentence prescribed under Section 25 of Arms Act is one year and therefore the punishment could not be reduced to less than the minimum period of one year as prescribed for the said Act.

It is necessary to see that the proviso to Section 1 (B) of Section 25 of Arms Act shows that only in the event of adequate special reasons to be recorded in the judgment, the sentence of imprisonment can be reduced to less than one

year. In the instant case, except for the time elapsed and age factor, nothing has been brought to the notice of this Court to consider the case of the applicant sympathetically for reducing the sentence imposed on him to less than the minimum period prescribed under the said Act. For the said reason, the request of the counsel for the applicant cannot be accepted.

11. Accordingly, the criminal revision being devoid of merits is liable to be dismissed and it is dismissed as such.

Sd/-
P.Sam Koshy
Judge