

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL REVISION APPLICATION NO.364 OF 2001

Krishna Hari Horembe
Age 27 years, Occ. Service,
Residing at Panvel, Dist. Ratnagiri. ...Applicant.

vs.

State of Maharashtra,
(Ratnagiri | Rural Police Station). ...Respondent.

None for the Applicant.
Mrs. A.A., Mane, APP. for the State.

CORAM : C.V. BHADANG, J.
DATE : APRIL 27, 2015.

ORAL JUDGMENT :

By this revision application, the applicant-original accused No.1 is taking exception to the Judgment and order dated 1st November 2001 passed by the learned Additional Sessions Judge, Ratnagiri in Criminal Appeal No.30 of 2000, and the Judgment and order dated 31 August 2000 passed by the learned Chief Judicial Magistrate, Ratnagiri in Regular Criminal Case No.160 of 1997 thereby convicting the petitioner for the offence punishable under Section 25(1)(a)(c) of the Arms Act, 1959 and

sentencing him to suffer R.I. for one year and to pay a fine of Rs.1000/- in default to suffer R.I. for one month.

2) According to the prosecution, in the night intervening between 12 August 1996 to 13 August 1996 API. Shri. Padmakar Juikar and other police staff attached to Police Station, Ratnagiri were on patrolling duty. The Police staff included ASI Sawadekar, Police Constable Potdar, Dhanwade and Narvane. When the patrolling party reached at Hatkhamba, it came across one jeep and auto rickshaw coming from Hatkhamba which were tried to be intercepted. However, both the vehicles proceeded further and thereafter stopped. The occupants in both the vehicles ran away in the forest area. One of the occupant was having a gun. The complainant API Shri. Juikar and the Police Staff took the search of the jeep and the auto rickshaw in which two live cartridges were found in the jeep as well as in the auto rickshaw, one battery with bell was also found. The occupants of the jeep were chased and were apprehended. According to the prosecution, the petitioner was illegally in possession of a fire arm without licence. That, on

completion of the investigation the present petitioner along with five others were prosecuted before the learned Chief Judicial Magistrate, First Class in Regular Criminal Case No.160/1997. At the trial the prosecution examined four witnesses P.W.1 Vijay Dhanwade, P.W..2 Pravin Potdar, P.W.3 Suresh Dhapale and P.W.4 Padmakar Juikar. The learned Chief Judicial Magistrate by Judgment and order dated 31 August 2000 found present petitioner guilty of the offence punishable under Section 25(1)(a) (c) of the Arms Act 1959 (Act of 1959 for short). The original accused No.6 was convicted for the offence punishable under Section 29 of the Act of 1959 and he was sentenced to suffer S.I. till rising of the court and to pay a fine of Rs.500/- in default to suffer S.I. for 15 days. The original accused Nos. 2 to 5 were acquitted.

3) The applicant and the accused No.6 challenged their conviction and sentence before the learned Additional Sessions Judge at Ratnagiri in Criminal Appeal No.30 of 2000. It appears that during the pendency of the appeal, the appellant original

accused No.6 died and as such, the appeal was prosecuted by the present applicant. The learned Sessions Judge by impugned Judgment and order dated 1 November 2001 has dismissed the appeal. That is how the applicant is before this court.

4) There is no appearance on behalf of the petitioner. I have heard the learned APP for the respondent State. This being a criminal revision application, I have perused the record and same is being disposed of on merits.

5) The only point which arises for determination is as to whether the impugned judgment and sentence passed by the learned Chief Judicial Magistrate and confirmed by the learned Additional Sessions Judge needs interference.

My answer is in the negative for the following reasons.

It has come in the evidence of P.W.1 Vijay Dhaavade that he was on patrolling duty in the night intervening y between 12 August 1996 and 13 August 1996 along with API Shri. Juikar and other staff members. At about 2 to 2.3-0 a.m. they saw a jeep

coming from Hatkhamba which was intercepted. The vehicle stopped at some distance. Occupants of the vehicle got down and died away. It has further come in the evidence that during the search of the vehicle empty cartridges were found in the jeep and two in the auto rickshaw. One battery attached with bell was also recovered from the auto rickshaw and one single barrel breech loader gun was recovered from the rickshaw. The occupants of the vehicle were chased by Police Constable Vijay Dhanwade, Pravin Potdar and Suresh Dhalpe and they were apprehended. The petitioner who was one of them gave his name as Krishna Horambe. This witness was cross examined in which it has come on record that gun was belonging to original accused No.6. The defence of the applicant was that they were searching a missing bullock which has not been accepted by the courts below. It further appears from the evidence of P.W.2 that it was the petitioner who was found in possession of one single barrel breech loader gun. The seizure panchanama of the articles seized was drawn which is produced at Exh.30.

The prosecution witness P.W.4. and P.W.3 have also supported the prosecution case and nothing has come on record so as to discard their testimony. It further appears that fire arm and cartridges were referred to the Forensics expert, whose report is produced at Exh. 35. Perusal of the said report shows that apart from 12 bore shot gun live cartridges were also found. The report further discloses that cartridges were dismantled in the laboratory upon which they were found to be live cartridges. In the face of such evidence both the courts below had found that the prosecution had established its case and the defence was not probable. I find that both the courts below on consideration of the prosecution evidence have rightly come to the conclusion about the guilt of the applicant and the impugned Judgment and order do not show exercise of jurisdiction with material irregularity. In such circumstances, I do not find that the impugned Judgment and order call for interference. In the result, revision application is hereby dismissed.

(C.V. BHADANG, J.)