

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

**CRR No. 115 of 2015 (O&M)**  
**Date of Decision : 06.05.2015**

Paramjit Singh @ Pola

.....Petitioner

Versus

State of Punjab

.....Respondent

**CORAM: HON'BLE MR. JUSTICE R.P. NAGRATH**

- 1. *Whether Reporters of local papers may be allowed to see the judgment?***
- 2. *To be referred to the Reporters or not?***
- 3. *Whether the judgment should be reported in the Digest?***

Present: Mr. S.S. Ranghi, Advocate  
for the petitioner.

Mr. Gazi Mohd., AAG, Punjab.

**R.P. Nagrath, J.**

The instant revision has been filed by the petitioner against the concurrent findings of his conviction recorded by the courts below under Section 25 of the Arms Act, 1959 (for short to be referred to as 'the Act'). The trial Court awarded him the sentence to undergo rigorous imprisonment for three years and to pay fine of ₹ 1000/-, in default of payment of fine to further undergo rigorous imprisonment for one month. The aforesaid sentence has also been upheld in appeal.

2. After arguing for sometime, learned counsel for the petitioner has confined his arguments only on the quantum of sentence and that was obviously because of the limited scope of interference in the findings of courts below in exercise of revisional

jurisdiction unless there is misreading of evidence or any material available has been ignored or further if the findings are perverse. Nothing of the kind has been pointed out.

3. For the purpose of quantum of sentence, it would be necessary to briefly describe the facts of the case.

4. SI Gurcharan Singh SHO of the Police Station Kharar was present with other members of police party near the petrol pump that a secret information was received against five persons including the petitioner that they were members of Babber Khalsa international terrorist group and they were active at various places including the States of Punjab and Jammu and Kashmir. The specific information as per FIR was that Jagtar Singh Hawara has kept huge quantity of ammunition with members of his outfit for achieving their nefarious activities. The FIR was registered under Sections 3, 4 and 5 of the Explosive Substances Act and the Arms Act, 1959.

5. On the specific direction from Superintendent of Police (D) the police party headed by PW-1 SI Gurdeep Singh, Incharge of the CIA Staff, Ropar, was present at the Bus Stand Kharar where PW-1 received a secret information against the petitioner that he could be apprehended near the bus stop of village Gharuan. The place was raided. The petitioner was apprehended and from his search recovery of 220 live cartridges of AK-47 rifle, contained in a polythene bag was made. This was prepared into a parcel and sealed with seal impression 'GS' of PW-1 and *panchnama* Ex. PW-1/A was prepared. Ex. PW-1/B is the site plan.

6. On 16.06.2005, the petitioner was taken out of the police

lockup and he got recovered .38 bore pistol and 50 live cartridges of same bore, contained in a polythene bag wrapped in a sheet of cloth, from near the bushes of SYL canal bridge for which memo and site plan were prepared. Ex. PW-1/E is the disclosure statement made by the petitioner. This weapon alongwith 50 live cartridges were also prepared into sealed parcel.

7. There has been extensive cross-examination of PW-1 and PW-2 ASI Rajinder Singh, the other recovery witness but the witnesses have made consistent statements on various aspects which would rule out the possibility of planting a false recovery. The evidence led by the prosecution in support of the charge has been meticulously examined by the courts below in reaching the conclusion of the guilt of petitioner for which there was no possibility of interference in exercise of revisional jurisdiction.

8. The weapon and the ammunition were tested by PW-4 HC Balwinder Singh, armourer and according to him 220 cartridges were of the caliber 7.62 mm of AK-47 rifle. He also tested the pistol of .38 bore and the cartridges which on examination were found to be live cartridges and the weapon to be in working condition. In the statement of PW-4, the pistol produced by the prosecution was marked as Ex. P3 and 50 cartridges of the same bore as Ex. P-2/1 to Ex. P-2/50. The second jar contained 220 live cartridges of 7.62 mm of AK-47 rifle marked as P-1/1 to Ex. P-1/220. The FIR against five suspects on the basis of secret information which was registered on 15.6.2006 was proved by PW-5 SI Gurcharan Singh, then SHO of Police Station Kharar. The sanction to prosecute the petitioner

accorded by the District Magistrate is Ex. PW-6/A, proved by PW-6.

9. Learned counsel for the petitioner submitted that the petitioner has undergone about one year and five months out of the total imprisonment awarded by the trial Court. It is further submitted that the weapon recovered is not a prohibited weapon as defined in Section 2(1)(i) of the Act so as to contend that minimum sentence could be 5 years. The prosecution case is covered by Section 25 (1B) of the Arms Act for which minimum sentence is one year which may extend to 3 years of imprisonment.

10. Learned trial Court or the appellate Court have not held that the arm or ammunition are covered within the definition of Section 2(1)(i) of the Act.

11. In **State of Punjab vs. Sher Singh, CRA-D-920-DB of 2003 decided on 31.01.2007**, the recovery made was of AK-47 rifle which according to the prosecution was 7.62 mm. It was found that this was a semi automatic weapon and cannot be said to be a prohibited weapon coming under the definition of prohibited arms neither it was the story of prosecution in fact in the allegation levelled against the petitioner.

12. As per custody certificate dated 25.03.2015, the petitioner has almost undergone one year and five months of imprisonment out of three years of imprisonment awarded to him.

13. In view of the discussion made above, I allow the contention for reducing the sentence of imprisonment from three years rigorous imprisonment to one year to six months of imprisonment under Section 25 of the Act, maintaining the imposition

of fine and the default clause.

14. The instant revision is dismissed on merits but partly allowed on the question of sentence as indicated above.

**May 06, 2015**

jk

**( R.P. NAGRATH )  
JUDGE**