

CRA-839-SB-2004

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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRA-839-SB-2004

Date of decision: 28.1.2016

Rajesh Kumar

...Appellant

Versus

State of Haryana

...Respondent

CORAM: HON'BLE MRS.JUSTICE SNEH PRASHAR

Present: Mr.Kulvir Narwal, Advocate for the appellant

Mr.Sandeep Vashisht, Deputy Advocate General, Haryana

SNEH PRASHAR, J.

The appellant was convicted for commission of offence under Section 25 of the Arms Act, 1959 (for short 'Act 1959') vide judgment dated 1.4.2004 passed by learned Additional Sessions Judge, Rohtak and was sentenced to undergo rigorous imprisonment for a period of two years and to pay a fine of Rs.1000/- and in default of payment of fine, to further undergo rigorous imprisonment for six months vide order dated 2.4.2004.

Precisely, the case of the prosecution is that on 10.04.2003 ASI Surat Singh alongwith his companion was on Delhi Road near Asthal Bohar for patrol duty and crime checking. Meantime, he received a wireless message that some person has shot at a worker of liquor vend and fled away. When ASI Surat Singh reached the spot, he came to know that the injured (Ravinder Kumar) had been shifted to PGIMS Rohtak.

He went there and recorded the statement of the injured, on the basis of which, formal FIR No.82 dated 10.4.2003 under Sections 307/ 452 of the Indian Penal Code and Section 25 of the Act, 1959 was registered against Rajesh Kumar (appellant) at Police Station Sadar Rohtak and investigation commenced. Led of a bullet .315 bore was taken in possession from the spot. On 12.4.2003, the appellant-accused was apprehended on suspicion at Baliyana turning when he was driving motorcycle No. HR-06H-4071 and seeing the police party had tried to flee away. On his personal search, a country made pistol .315 bore was recovered from the right side pocket of his pants, which was taken in possession vide memo Ex.PG and he was arrested. On completion of investigation, final report under Section 173 of the Code of Criminal Procedure was presented in the Court.

The appellant was charge-sheeted under Sections 307 and 452 IPC and Section 25 of the Act 1959 to which, he pleaded not guilty and claimed trial.

To prove its allegation, prosecution examined PW1 complainant Ravinder Kumar (injured); PW2 Ishwar Singh eye witness; PW3 Constable Sumit Kumar (Draftsman); PW4 Ram Bhagat Reader to District Magistrate, Rohtak; PW5 Dr.Subhash Chander; PW6 HC Krishan Kumar; PW7 ASI Surat Singh; PW8 MHC Jaidev Singh and PW9 ASI Balwan Singh.

After closure of evidence of the prosecution, statement of the appellant under Section 313 of the Code of Criminal Procedure was

recorded. He denied the incriminating evidence put to him and pleaded false implication.

Considering the submissions made by learned Public Prosecutor for the State as well as the counsel representing the appellant and evaluating the evidence brought on record, learned trial Court convicted and sentenced the appellant as noted above.

Feeling aggrieved, the appellant filed the present appeal.

The submissions made by learned counsel for the parties have been heard and record perused.

At the very outset, learned counsel for the appellant submitted that he does not challenge the judgment of conviction on merits and endeavors to confine his prayer to reduce the sentence awarded to the appellant because he has already faced the agony of criminal litigation for over thirteen years. He is a first offender and has not been involved in any other case. He also has a huge family dependent upon him.

From the statement of PW7 ASI Surat Singh, Investigation Officer, it transpires that when the accused-appellant was apprehended, an illicit weapon i.e. country made pistol .315 bore was recovered from him. The statement of PW7 ASI Surat Singh stands corroborated by PW6 HC Krishan Kumar, who was also a member of the police party. Thus, the findings of learned trial Court regarding recovery of illicit weapon from the appellant being well established, do not warrant intervention and conviction of the appellant is maintained.

The order of sentence dated 2.4.2004 of learned Additional Sessions Judge, Rohtak indicates that the appellant had remained in custody for nine months during trial.

Considering the submissions made on behalf of the appellant and the fact that the appellant is a young man of about 34 years and is facing the protracted trial for the last 13 years and has a family dependent upon him, the sentence awarded to him under Section 25 of the Arms Act is reduced to one year with no change in fine clause.

Disposed of accordingly.

The appellant is on bail, his bail bond shall stand cancelled. The concerned Chief Judicial Magistrate, shall get the convict arrested and commit him to prison for serving the remaining period of sentence and shall take necessary steps, to comply with the judgment, with due promptitude, keeping in view the applicability of the provisions of Section 428 Cr.P.C., and submit compliance report, to this Court, within a period of two months, from the date of receipt of a copy thereof.

The Registry shall keep track of the submission of compliance report and put up the papers, whether the reports are received or not within the time frame, immediately after the expiry thereof.

28.1.2016
gsv

(SNEH PRASHAR)
JUDGE