

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

**CRA-S-245-SB of 2005.
Date of Decision: 01.09.2016.**

VIRENDER KUMARAPPELLANT.
VERSUS
STATE OF HARYANARESPONDENT.

CORAM : HON'BLE MRS. JUSTICE SNEH PRASHAR

Present: Mrs. Aditi Girdhar, Legal Aid Counsel for the appellant.
Mr. Ashok Muthreja, Deputy Advocate General, Haryana.

SNEH PRASHAR, J.

This appeal was preferred by appellant Virender Kumar, assailing the judgment of conviction and order of sentence dated 01.10.2003 recorded by learned Additional Sessions Judge, Jagadhri, in Session Case No.53 of 1999 based on First Information Report No.167 dated 17.05.1999 registered at Police Station City, Yamuna Nagar, by virtue of which he (appellant) was sentenced to undergo rigorous imprisonment for one year, for commission of offence punishable under Section 25 of the Indian Arms Act, 1959 (for short, "the Arms Act").

The relevant facts garnered from the record are as under:-

On 12.05.1999, the appellant was arrested in a case registered under Sections 364, 392, 302, 201 read with Section 34 of the Indian Penal Code (for short, "I.P.C.") arising out of First Information Report No.90 dated 13.03.1999. During interrogation, he suffered a disclosure statement

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2016.09.26 10:17 (Ex.PF) on 17.05.1999 in pursuance of which he got recovered a
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integrity of this document

countrymade pistol of .315 bore (Ex.P1) from the place where he had concealed the same near the wall of City Centre, Yamuna Nagar. The pistol was taken in possession vide memo Ex.PC and its sketch Ex.PD was prepared. Rough site plan of the place of recovery was also prepared. The pistol was got mechanically examined by an Armourer Constable Tej Vir Singh (PW3) who gave his report Ex.PB according to which the pistol was in working order.

The appellant was subjected to trial in the case arising out of First Information Report No.90 dated 13.03.1999 as well as the present case bearing First Information Report No.167 dated 17.05.1999 registered under Section 25(54) of the Arms Act. As mentioned in Para No.7 of the judgment dated 01.10.2003 passed by learned trial Court in the instant case (i.e. First Information Report No.167 dated 17.05.1999) the appellant was convicted for commission of offence under Sections 364, 392, 397, 302 read with Section 34 I.P.C. in the main case as well i.e. First Information Report No.90 dated 13.03.1999. In the said case, the trial Court had come to the conclusion that the pistol (Ex.P1) was used in the commission of crime in respect of which First Information Report No.90 dated 13.03.1999 had been registered. It was also the finding that the bullet taken out from the body of the deceased was fired from the countrymade pistol (Ex.P1) and by no other weapon.

As far as recovery of the countrymade pistol (Ex.P1) is concerned, it was proved by PW7 Sub Inspector Des Raj, PW4 Head Constable Jagdev Singh and PW6 Jarnail Singh, an independent witness, before whom the appellant had suffered the disclosure statement Ex.PF and

Since the statement of the said witnesses suffered from no infirmity and were unequivocal on the material aspects, there was no reason to disbelieve the same.

The appellant and his co-accused preferred an appeal against the judgment of conviction and order of sentence passed in the criminal case arising out of First Information Report No.90 of 1999 vide which they had been convicted for commission of offence punishable under Sections 364, 392, 397, 302 read with Section 34 I.P.C. Their appeal was dismissed by Division Bench of this Court by virtue of judgment dated 04.05.2006. The recovery of the countrymade pistol from the appellant and its use during commission of murder was held to be proved. Consequent to the said findings and decision, there being no merit in the instant appeal, it is hereby dismissed.

(SNEH PRASHAR)
JUDGE

01.09.2016.
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Whether speaking/ reasoned : **Yes**

Whether Reportable : **Yes**