

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

**CRR-1386-2013
Date of decision : 18.10.2016**

Mukesh @ Shiv

...Petitioner

Versus

State of Haryana

...Respondent

CORAM : HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present : None the petitioner.
Mr. Neeraj Poswal, AAG, Haryana.

JITENDRA CHAUHAN, J.

The present revision petition has been filed challenging judgment dated 14.03.2013, passed by learned Additional Sessions Judge, Faridabad, (for short, 'the appellate Court'), whereby, judgment of conviction and order of sentence dated 27.03.2012, passed by learned Judicial Magistrate 1st Class, Faridabad, (for short, 'the trial Court'), convicting the petitioner under Section 25 of the Arms Act and sentencing him to undergo rigorous imprisonment for a period of 01 year and to pay a fine of Rs.2,000/- along with default stipulation, has been affirmed

Brief facts of the case find mention in para No.2 of the judgment rendered by the first appellate Court, which read as under:-

“2. The prosecution version is that on 31.3.2006, a patrolling party headed by HC Balwan Singh was present at Kheri Bridge when the accused was seen approaching from Bharat Colony side. He was apprehended on the basis of a suspicion and on enquiry, he disclosed his name as Mukesh s/o Harkishan. His personal search lead to the recovery of a

country made pistol for which he was unable to produce any permit or licence. The pistol was seized and the accused was registered against him. He was duly arrested and sent up to face trial.”

In this background, the accused was charged under Section 25 of the Arms Act, to which he pleaded not guilty and claimed trial.

In order to prove its case, the prosecution examined Rajender Kumar as PW-1, Hitender Kumar as PW-2, SI Pal Singh as PW-3, Jagmer Singh as PW-4 and Balwan Singh as PW-5.

When examined under Section 313 Cr.P.C., the accused denied all allegations and pleaded innocence. However, no evidence was led in defence.

After hearing learned counsel for the parties and perusing the evidence available on record, the learned trial Court convicted and sentenced the petitioner as detailed at the outset of this judgment.

Feeling aggrieved, the petitioner preferred an appeal before learned Appellate Court, which affirmed the judgment and order passed by the trial Court and dismissed the appeal. Hence the present criminal revision petition, which was admitted by this Court on 26.04.2013.

In this case, the petitioner was apprehended from the spot and a loaded country made pistol was recovered from him. The pistol along with the cartridge was sealed and taken into possession. The pistol was got mechanically examined and found to be in a working condition as per report Ex.PW2/A. The statements of the prosecution witnesses are in consonance with each other. The fact that no witness from the general public was joined

is not sufficient to brush aside the entire prosecution version. It has been categorically stated by PW-4 and PW-5 that no one from the general public was willing to join the proceedings. The testimony of official witnesses inspires confidence. Thus, learned Courts below have rightly returned the findings convicting the petitioner under Section 25 of the Arms Act for possessing illicit weapon.

Therefore, this Court is not inclined to disturb the concurrent findings recorded by the learned Courts below in the matter of conviction and the same are hereby maintained.

However, as far as the sentence part is concerned, the incident took place on 31.03.2006 and the petitioner has been facing the agony of protracted trial for the last more than one decade. He was a young man of 33 years of age at the time of the occurrence, having no previous criminal history.

Thus, keeping in view the mitigating circumstances enumerated above, this Court is inclined to take a lenient view as far as the quantum of sentence is concerned. Accordingly, the sentence of imprisonment awarded under Section 25 of the Arms Act is reduced from RI for 01 year to RI for 06 months. The petitioner is stated to be on bail. He be taken into custody forthwith, to undergo the remainder of the sentence. His bail bonds shall stand forfeited.

This revision petition stands disposed of accordingly.

18.10.2016

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(JITENDRA CHAUHAN)

JUDGE

Whether speaking / reasoned : Yes No

Whether Reportable : Yes No

ATUL SETHI
2016.10.26 18:04
I attest to the accuracy and
authenticity of this document
Chandigarh