

IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR No.444 of 2016 (O&M)

Date of decision: September 28, 2016.

Mukesh Kumar @ Munesh

... **Petitioner**

v.

State of Haryana

... **Respondent**

CORAM: **HON'BLE MR. JUSTICE A.B. CHAUDHARI**

Present: Shri HPS Ishar, Advocate for the petitioner.

Ms. Tanushree Gupta, Deputy Advocate General, Haryana.

A.B. Chaudhari, J. (Oral):

Rule. Heard forthwith with the assistance of the counsel for the rival parties. The petitioner was acquitted by the learned trial Judge for the charge under Section 25 of the Arms Act, namely, for carrying a country-made pistol. The lower appellate court however, reversed the order of acquittal and converted the same into one of conviction and sentenced the petitioner to undergo RI for one year and to pay fine in the sum of Rs.1,000/-, which already stands paid. The lower appellate court also recorded that the petitioner is not a previous convict.

Learned counsel for the petitioner was asked to take instructions on phone in the morning session since he submitted that the petitioner has undergone the sentence of about 9 months and 12 days as per the custody certificate and therefore the order of sentence be modified.

Learned counsel has, in the afternoon session, made a statement upon

instructions that the petitioner does not press the challenge to his conviction on merits and if let off on the sentence already undergone by him, he would accept the same.

In my considered view, since the petitioner has actually undergone sentence of more than nine months and has also paid the fine, the sentence having been suspended in this revision petition, it will not be worthwhile to push him to jail again for serving out the remaining sentence. In that view of the matter, I make the following order:-

ORDER

- (i) CRR No.444 of 2016 is partly allowed;
- (ii) the impugned judgment and order of conviction under Section 25 of the Arms Act is confirmed;
- (iii) the impugned judgment and order of sentence of one year is modified by directing the petitioner to undergo the sentence which he has already undergone.

Disposed of.

September 28, 2016.
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[A.B. Chaudhari]
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/No