

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

CRA-S-1727-SB-2004 (O&M)
Date of decision: February 13, 2017.

Amrik Singh

... **Petitioner**

v.

State of Punjab

... **Respondent**

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

Present: None for the appellant.

Shri Abhishek Chautala, Assistant Advocate General, Punjab.

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

Being aggrieved by the judgment and order dated 20.8.2004 passed in Sessions Case No.56 dated 29.4.2004 arising out of FIR No.47 dated 23.2.2002, under Section 25 of the Arms act, registered at Police Station Focal Point, Ludhiana, by which the appellant was convicted for offence under Section 25 of the Arms Act and was sentenced to undergo RI for one year and to make payment of fine of R.1,000/- and in default three months imprisonment, the present appeal was filed by the accused-convict/appellant.

In brief, the prosecution case is that Inspector Mukhwinder Singh along with other police officials received secret information that the accused appellant Amrik Singh, along with his co-accused, was preparing to commit dacoity with deadly weapons. Accordingly, the police party headed by Inspector Mukhwinder Singh and comprising of ASI Dalip Singh and

HC Baljit Singh, apprehended Amrik Singh @ Chhinda. On search, 32 bore revolver which was unloaded and two live cartridges were recovered. Charge sheet was framed. The trial was conducted. The learned trial court upon recording of evidence found that there was enough evidence against the appellant who had no reason to carry the revolver with live cartridges.

Following is the discussion in para 9 of the impugned judgment about the role of the appellant:-

“PW4 ASI Dalip singh and PW5 HC Baljit Singh have deposed on oath the facts of their being members of police party headed by Inspector Mukhwinder Singh, conducting of raid in Moti Nagar Park, Ludhiana and arrest of accused Amrik Singh along with his co-accused in a separate case under Sections 399/402 IPC. They have also deposed that personal search of accused Amritk Singh alias Chhinda further yielded recovery of 32 bore revolver and two live cartridges of same bore. They also deposed that accused could not produce any licence/permit for possession of the revolver and cartridges. They also proved on record Ex.PA sketch of the revolver, Ex.PB recovery memo, Ex.PC ruqa, Ex.PC/1 formal FIR, Ex.PD site plan of place of recovery, Ex.PE and Ex.PW-2//1 arrest memo and search memo of the accused.”

There is no reason why PW4 ASI Dalip Singh who had caught the appellant red handed along with PW5 HC Baljit Singh should be disbelieved as believed by the trial court.

I therefore confirm the conviction under Section 25 of the Arms Act.

The next question is about the sentence that is awarded to the appellant. The incident took place on 23.2.2002. The appellant was arrested and this Court had suspended his sentence by order dated 9.9.2004.

During trial, the appellant was on bail. He has undergone the imprisonment during trial from the date of his arrest till he was released by the trial court. Looking to the fact that the incident was of 23.2.2002 and further that there was no other act alleged against appellant Amrik Singh accused except the fact that he was found with a revolver and two live cartridges, I think there is a mitigating circumstance for converting the sentence of imprisonment of one year to the one he has already undergone but subject to increase of fine to the tune of Rs.10,000/- to be deposited in the trial court. In that view of the matter, following order is passed:-

ORDER

- (i) CRA-S-1727-SB-2004 is partly allowed;
- (ii) judgment of conviction and order of sentence under Section 25 of the Arms Act is confirmed; however, the order regarding sentence of one year is set aside and in place the appellant is sentenced to undergo the sentence which he has already undergone but subject to deposit of fine in the sum of Rs.10,000/- with the trial court within a period of six months from today.
- (iii) If the fine is not paid by the appellant, he will undergo rigorous imprisonment of one month.

February 13, 2017.
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[**A.B. Chaudhari**]
Judge

Whether speaking/reasoned
Whether reportable

Yes/No
Yes/N