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

CRA-S-1630-SB of 2012 (O&M)

Date of decision: November 11, 2017

Narinder Singh alias Nindi and another

.....Petitioners

Versus

State of Punjab

.....Respondent

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

Present: Ms. Mayuri Lakhanpal Kalia, Legal Aid Counsel
for the applicant-appellant.

Mr. Ramandeep Singh Sandhu, Sr. DAG, Punjab.

A.B. CHAUDHARI, J (Oral)

Heard learned counsel for the rival parties.

Being aggrieved by the judgment and order dated 01.10.2011 passed by the Sessions Judge, S.B.S. Nagar in Sessions Case No.8 of 2011 arising out of FIR No.117 dated 03.08.2010 under Sections 399, 402 & 411 IPC and Sections 25/54/59 of Arms Act, registered at Police Station Rahon, by which the appellant was convicted for offence under Section 25(1)(b) of Arms Act and was sentenced to undergo rigorous imprisonment for 3 years and in default sentence of one year, the present appeal was filed in this Court.

Learned legal aid counsel appointed for the appellant vehemently argued assailing the impugned judgment and order and submitted that the trial Court cannot have convicted for the offence

under Section 25(1)(b) of Arms Act. According to her there is uncorroborated testimony of PW-6/Surinder Chand, Additional SI, who is interested witness and his testimony could not have been taken into consideration much less believed. She further submits that contemporaneous preparation of the documents about the alleged seizure of the .12 bore gun, but the recovery is fake and also not proved according to law. According to her, since the trial Court acquitted the appellant and by disbelieving the evidence on the point of attempting dacoity, the trial Court should have been applied same yard stick while appreciating the evidence before recording the conviction under Section 25(1)(b) of the Arms Act. She further prayed for acquittal of the appellant.

Per contra, learned counsel for the State, Mr. Ramandeep Singh Sandhu, Sr. DAG, Punjab, contended that the evidence of two witnesses PW-6 & PW-12 corroborates each other in relation to the recovery of .12 bore gun from the appellant. In all material particulars, according to him, cross-examination of witnesses do not reveal any damage to the material evidence in the Examination-in-Chief. He therefore submitted that in the absence of evidence, these witnesses being believable and trustworthy, the trial Court could not be faltered in recording the conviction. In addition, he submitted that the appellant has already undergone the entire sentence of three years and might be in jail for some other offence against him. Nevertheless, in the present case, the fact remains that the appellant is served out in the

case. Since the counsel for the appellant has prays for the acquittal on the ground that the trial Court erroneously convicted the appellant. This Court has undertaken the exercise for looking at the evidence of the witnesses PW-6 & PW-12.

I have gone through the evidence of both the witnesses who are police witnesses. Law is however trite that merely because the witnesses are police witnesses/official witnesses, their testimony need not be looked with any suspicion. On the contrary, the assessment of their evidence should be made on its own merits.

In that view of the matter, I find that evidence of both the witnesses is clear in seizure of the .12 bore gun that was made personally from the appellant and the witness, thereafter had put seal only at the time of recovery of preparation of the seizure memo etc. The document have duly been proved by the witnesses in the Court.

It is not in dispute that the appellant did not have any licence for carrying the said gun/weapon. Obviously therefore he was rightly held guilty by the trial Court for unauthorizedly having the gun with him. It is true that the appellant along with other accused persons have been acquitted with the substantive charge of attempt to commit dacoity.

Nevertheless, the evidence regarding possession of unauthorized arm with the present appellant is trustworthy and rightly believed by the trial Court. I therefore uphold the conviction of the appellant for the aforesaid under Section 25(1)(b) of the Arms Act.

Insofar as, the award of sentence is concerned, learned counsel for the State has submitted that the appellant has already undergone the sentence in the present case.

In that view of the matter, I think the only order that can possibly be made is as under:-

ORDER

- (i) The CRA-S-1630-SB of 2012 is dismissed.
- (ii) Fees of the counsel for the appellant be paid as per rules.

(A.B. CHAUDHARI)
JUDGE

November 11, 2017
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Whether speaking/ reasoned: Yes/No
Whether Reportable: Yes/No