

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

**Criminal Revision 195 of 2008
Date of Decision: March 8, 2017**

Gurdeep Singh		Petitioner
	Versus	
State of Haryana		 Respondent

CORAM : HON'BLE MR. JUSTICE T.P.S.MANN

Present : Mr. Hitesh Kumar Sammi, Advocate
as amicus curiae for the petitioner.

Mr. Ashok S. Chaudhary, Addl. Advocate General, Haryana

T.P.S.MANN, J.

The petitioner was tried for committing the offence punishable under Section 25 of the Arms Act for being found in possession of one loaded pistol alongwith its magazine, which contained six live cartridges and another magazine which contained seven live cartridges, for which, he could not produce any permit or licence. Vide judgment and order dated 9.6.2007, learned Judicial Magistrate 1st Class, Kurukshetra, convicted him for the aforementioned offence and sentenced him to undergo rigorous imprisonment for a period of three years and to pay a fine of Rs.500/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of three months. The

period already spent by him in jail during the trial of the case was ordered to be set off against the sentence imposed upon him. The fine amount was deposited by him there and then.

Aggrieved of his conviction and sentence, the petitioner filed an appeal. Vide judgment dated 16.10.2007, learned Sessions Judge, Kurukshetra, dismissed the appeal except for modifying his sentence of imprisonment from three years to rigorous imprisonment for two years.

Still not satisfied, he filed the present revision, which was admitted on 22.9.2008.

According to the prosecution, on 17.10.2005, Inspector Randhir Singh of CIA Staff, Kurukshetra, alongwith Sub-Inspector Ishwar Singh, Sub-Inspector Ram Chander and other officials was present at Sunaria Chowk, Babain in connection with patrolling duty and crime checking where he received a secret information that one suspicious person alongwith firearms usually visited the house of Pritam Singh and if a raid was conducted, he could be apprehended. Believing the information to be reliable, Inspector Randhir Singh alongwith the police party reached the house of Pritam Singh where the petitioner was found sitting in a room. On his personal search, one pistol alongwith its magazine was recovered. Six live cartridges were found in the magazine whereas one live cartridge

was in the chamber of the pistol. Another magazine containing seven live cartridges was recovered from the right pocket of his pent. One mobile was also recovered from the front pocket of his shirt.

At the trial of the case, the prosecution examined PW1 Jai Parkash, Reader to District Magistrate, Kurukshetra, PW2 Head Constable Ramphal, PW3 Sub-Inspector Satish Kumar, PW4 Inspector Randhir Singh, PW5 Sub-Inspector Ram Chander and PW6 Inspector Ishwar Singh.

Both the learned Courts below have held the petitioner liable for committing the offence under Section 25 of the Arms Act as he did not have any permit or licence to carry the pistol and the live cartridges.

Learned counsel for the petitioner has submitted that the conviction of the petitioner under Section 25 of the Arms Act cannot be sustained as there is no material on the record to establish that the pistol allegedly recovered from him was in working order. In this regard, he has relied upon the judgment of Hon'ble Supreme Court in **State of Punjab Vs. Jagga Singh**, AIR 1998 SC 3113, wherein, it was held that in the absence of report from the Forensic Science Laboratory that the gun was in working condition, the offence under Section 25 of the Arms Act was not made out.

In order to prove its case against the petitioner, the prosecution had examined, amongst others, PW2 Head Constable Ram Phal, Head Armourer, Kurukshetra, who deposed that on 21.10.2005, Inspector Randhir Singh produced before him one sealed parcel for testing the pistol. He broke open the seal and after mechanically testing the pistol, found the same to be fit for firing. In this regard, the test report Ex.PW2/A was prepared by him, wherein, it stood mentioned that after breaking the seal of the parcel, he had tested the pistol, 14 live cartridges and 2 magazines. Once, it is found that the pistol recovered from the petitioner was in working order and the cartridges were live, the conviction of the petitioner under Section 25 of the Arms Act is perfectly in order and not required to be upset. In the case of **Jagga Singh** (supra), there was no material on the record that the firearm was in working condition or that the cartridges were live ones. This is clear from the observations of the Bench as follows:-

“Though the evidence of PW1 H. C. Baldev Singh and PW3 Basant Singh establishes that the respondent was found in possession of one .12 bore DBBL Gun and four live cartridges, there is no satisfactory evidence to show that the said gun and the cartridges were sent for examination by the Central Forensic Scientific Laboratory. There is no report from the Forensic Scientific Laboratory

nor any other evidence to prove that the said Gun was in a working condition or that the said cartridges were live cartridges. An entry made in the Malkhana register was relied upon by the prosecution. It does not mention that gun bearing No.14119-88 was sent to the Central Forensic Laboratory nor does it contain any description of the cartridges.”

In the present case report Ex.PW2/A was made by PW2 Head Constable Ramphal, Head Armourer, Kurukshetra, wherein, he had stated that after mechanically testing the pistol, he found the same to be fit for firing.

As regards the sentence, it may be noticed that after being arrested in the present case on 17.10.2005, the petitioner remained behind the bars throughout the trial, which ended on 9.6.2007. He even remained behind the bars during the pendency of the appeal, which came to be decided on 16.10.2007. In appeal, his substantive sentence of imprisonment was reduced from three years to rigorous imprisonment for two years. For that reason, he completed the substantive sentence of imprisonment of two years on 16.10.2007. It is another thing that he remained behind the bars even subsequent to the disposal of his appeal by the lower appellate Court as is clear from the attestation made by the Chief Judicial Magistrate, Chandigarh on 19.11.2007 on the power of attorney, which he filed alongwith the present revision. It

appears that the petitioner was involved in some other cases and for that reason he continued to remain behind the bars despite completing his substantive sentence of imprisonment in the present case.

In view of the above, the conviction of the petitioner under Section 25 of the Arms Act is upheld. As he has already undergone the substantive sentence of imprisonment and has also deposited the fine, no orders are required to be passed in that regard.

The revision is, accordingly, disposed of.

March 8 , 2017
amit rana

(T.P.S. MANN)
JUDGE

Whether reasoned/speaking	Yes/No
Whether reportable	Yes/No