

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRR-1371-2015 (O&M)

Date of decision: 10.08.2017

ASHISH NAIN

..... *Petitioner*

Vs.

STATE OF HARYANA

.....*Respondent*

CORAM: **HON'BLE MR. JUSTICE KULDIP SINGH**

Present: None for the petitioner.

Mr. Pawan Garg, AAG, Haryana.

KULDIP SINGH J. (ORAL)

The case at hand is an admitted case. However, earlier, vide order dated 20.04.2015, notice of motion was issued by this Court regarding quantum of sentence only. Since, no one is appearing on behalf of the petitioner, therefore, I proceed to dispose of the present revision petition.

The present revision petition has been filed against the judgment dated 23.03.2015, passed by the learned Additional Sessions Judge, Rohtak, affirming that of the judgment of conviction dated 23.09.2014 and order of sentence dated 25.09.2014 passed by the learned Judicial Magistrate Ist Class, Rohtak, vide which the petitioner was convicted under Section 25 of the Arms Act, 1959 and sentenced to undergo rigorous imprisonment for a period of one year and to pay a fine of ₹ 5,000/-, in default thereof to further undergo imprisonment for a period of three months.

As per the prosecution's case, on 31.07.2009, Deepak, complainant, had gone to the University Hostel to meet his friends where he met with the present petitioner-Ashish Nain and had some arguments with him. However, the matter was pacified. Thereafter, in the evening of 01.08.2009 at about 6.00 P.M., Ashish Nain alongwith two other persons came to the room of

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the complainant-Deepak and criminally intimidated him and threatened him that he will kill him if he remained in Rohtak. Further to cause alarm to the complainant-Deepak, accused/petitioner, Ashish Nain, had fired from his illicit pistol and thereafter escaped from the spot on his motor cycle. On the written complainant of Deepak, the present case was registered.

It comes out that during the examination, complainant-Deepak did not support the prosecution case and turned hostile. He stated that accused who were present in the Court were not the persons who entered in his Room and threatened him with dire consequences and thereafter fired with the illicit pistol. The complainant has further stated that the police had obtained his signature on the blank papers. The other eye witnesses namely; Mohit Son of Hawa Singh (PW-2); Krishan Son of Jagdev (PW-3); Ajay Son of Surinder (PW-4) and Sonu Son of Hawa Singh (PW-5) had also not supported the prosecution's case. However, Kulbir Singh, Sub Inspector (PW-10) proved the recovery of illicit pistol from the accused-petitioner.

The trial Court, after considering the fact that the complainant and eye-witnesses had turned hostile, acquitted the petitioner under Sections 452, 285 and 506 of Indian Penal Code. However, the trial Court held the accused-petitioner guilty for recovery of one illicit country made pistol. Accordingly, accused-petitioner was convicted under Section 25 of the Arms Act, 1959 and sentenced to undergo rigorous imprisonment for a period of one year as well as to pay a fine of ₹ 5,000/- and in default thereof to further undergo imprisonment for a period of three months. The appeal against the said judgment was dismissed by the learned Additional Sessions Judge, Rohtak vide order dated 23.03.2015.

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I have heard the learned counsel for both the parties and have carefully gone through the case file.

In this case though the original incident was not proved but it is proved that when the petitioner was arrested, one country made illicit pistol without licence, was recovered from his possession. The recovery of country made illicit pistol was proved by the testimony of official witness namely Kulbir Singh Sub Inspector (PW-10). There is nothing on record to doubt his testimony. FSL report was also produced before the trial Court.

It being so, there is no illegality or infirmity in the findings recorded by both the Courts below. Accordingly, the present revision petition is dismissed. Consequently, the accused-petitioner be arrested and be committed to jail to undergo the remaining part of the sentence.

August 10, 2017
Suresh Kumar

(KULDIP SINGH)
JUDGE

<i>Whether speaking / reasoned</i>	:	✓ Yes	/	No ✓
<i>Whether Reportable</i>	:	Yes	/	No