

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

CRR No.1032 of 2016 (O&M)
Date of Decision: January 23, 2017

Jaskaran Singh

...Petitioner

VERSUS

State of Punjab

...Respondent

CORAM: HON'BLE MR. JUSTICE INDERJIT SINGH

Present: Mr.C.S.Bakshi, Advocate
for the petitioner.

Mr.K.S.Aulakh, Asstt. Advocate General, Punjab
for the respondent-State.

INDERJIT SINGH, J.

The present revision has been filed by the petitioner Jaskaran Singh respondent State of Punjab, challenging the impugned judgment of conviction and order of sentence dated 27.05.2015 passed by learned Sub Divisional Judicial Magistrate, Patti, vide which the petitioner was convicted and sentenced to undergo rigorous imprisonment for a period of three years and to pay fine of ₹1000/- and in default of payment of fine, to undergo rigorous imprisonment for a period of fifteen days under Section 25 of the Arms Act and also challenging the judgment dated 02.02.2016 passed by learned Addl. Sessions Judge, Tarn Taran, vide which appeal filed by petitioner was dismissed.

From the record, I find that the challan was presented against

petitioner in case FIR No.92 dated 05.05.2002. The brief facts of the case as noted down in the judgment passed by learned SDJM, Patti, are as under:-

“Brief facts of the case of prosecution are that on 5.5.2002 SI Sukhwinder Singh along with ASI Balwinder Singh and other police official were investigating in case under Sections 332, 353, 186 of IPC against accused Jaskaran Singh son of Piara Singh and during the investigation of the said case Jaskaran Singh suffered a disclosure statement that he had kept concealed revolver of 455 bore in his residential accommodation and he knows about the same and he can get the said revolver recovered at his own instance and the said statement of Jaskaran Singh was reduced into writing and he put his signature on the said disclosure statement in English. Accused Jaskaran Singh took the police party to his house and got recovered the pistol of revolver of 455 bore from the trunk (iron peti) which was lying in his house and SI Sukhwinder Singh took the possession of said revolver along with two life cartridges Rough sketch of revolver was prepared. Accused Jaskaran Singh could not give any satisfactorily reply for retaining the said revolver without any licence and permit and the revolver along with cartridges were taken into police possession vide separate memo and on the basis of above said recovery, the present FIR under Section 25-24-59 of Arms Act has been registered against the accused. Accused was arrested in the present case. Statement of witnesses under Section 161 Cr.P.C., were recorded. Search memo and arrest memo were prepared. The sanction to prosecute were obtained during investigation and after completion of necessary formalities, challan was presented against the accused.”

In support of its case, prosecution examined PW-1 ASI Balwinder Singh, PW-2 ASI Sanjeev Singh, PW-3 Inspector Sukhwinder Singh, PW-4 ASI Palwinder Singh and PW-5 Sushma Rani.

Statement of the accused under Section 313 Cr.P.C. was recorded. He denied the correctness of the evidence and pleaded himself as innocent. In defence, accused-petitioner examined himself as DW-1 and DW-2 Lakhwinder Singh.

Learned SDJM, Patti, after appreciating the evidence, convicted

and sentenced the petitioner as stated above. An appeal was filed by the petitioner and the same was dismissed by learned Addl. Sessions Judge, Tarn Taran, vide judgment dated 02.02.2016.

Aggrieved from the above-said judgments, present revision petition has been filed.

Notice of motion was issued and learned State counsel appeared and contested the petition.

I have heard learned counsel for the petitioner as well as learned State counsel and have gone through the lower Court record as well as the judgments passed by the Courts below.

From the record, I find that another FIR bearing No.91 regarding the same occurrence was registered against the present petitioner on the same day in the same police station. As per the judgment dated 19.01.2015, which is Ex.DW-1/A, the present petitioner has been acquitted in that case. I have gone through the findings given in that judgment. Learned Court after discussing the evidence in that case, held that either no occurrence took place or the witnesses were joined later on to make out an eye witness account. The Court also held that the police party should have reached the hospital within reasonable time i.e. upto 7 or 7.30 PM. During this period, anything can be forged or fabricated. The apprehension of fabrication of contusions on the person of PW2 with friendly hand cannot be ruled out. The Court also disbelieved the whole prosecution version by holding that the whole prosecution story seems to be doubtful and then after giving benefit of doubt in that case, the present petitioner was acquitted in case FIR No.91 dated 05.05.2002. In that judgment, the Court further held

fabrication of contusions but the Investigating Officer proceeded a step further to make the case doubtful by saying that he completed the formalities at 11.30 P.M. The Court in the connected FIR, from which the present FIR has arisen, doubted the whole prosecution version. The recovery of the revolver of 455 bore from the trunk as per disclosure statement of the accused is the off-shoot of FIR No.91 dated 05.05.2002, which version has been totally disbelieved by the Court.

The defence of the present petitioner is that this revolver was licensed revolver of his father and his mother also resides with him and this disclosure statement has been falsely prepared and the recovery has been falsely planted upon him. The prosecution has examined almost the same witnesses, who have been disbelieved in the main connected FIR. PW-1 to PW-4 are the police officials. PW-5 Sushma Rani is Senior Assistant in the DC Office, who has proved the sanction order. No private witness has been examined by the police in the present case to prove the disclosure statement and recovery. Furthermore, the accused has examined himself as DW-1 and deposed that the revolver in question was licensed revolver of his father and his father has given the application for renewal and after that, his father had died and he stated that he has been falsely implicated in this case by the police. He also stated that he has been acquitted in the main case under Section 332 IPC. DW-2 Lakhwinder Singh has brought the summoned record to prove that the weapon of 455 bore (revolver) was sanctioned and license issued to Pyara Singh S/o Boor Singh and renewed till 23.09.1998.

Keeping in view the defence version as well as the fact that in the main case, the version of the police has been disbelieved and in view of the prosecution witnesses, I find that the prosecution has not proved its case

beyond reasonable doubt. The findings given by both the Courts below by not considering all these above-stated facts, amount to misreading of material evidence. Therefore, the impugned judgment of conviction and order of sentence dated 27.05.2015 passed by learned SDJM, Patti and judgment dated 02.02.2016 passed by learned Addl. Sessions Judge, Tarn Taran, are set aside and petitioner-Jaskaran Singh is acquitted of the charges framed against him.

Therefore, finding merit in the present revision petition, the same is allowed.

Petitioner Jaskaran Singh, who is in custody, be released forthwith, if his custody is not required in connection with any other case.

January 23, 2017
Vgulati

(INDERJIT SINGH)
JUDGE

Whether speaking/reasoned
Whether reportable

Yes
No