

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.992 of 2017

Arising Out of PS.Case No. -null Year- null Thana -null District- BEGUSARAI

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Ravindra Yadav @ Ravinder Yadav @ Rabbo Son of Ram Chandra Yadav @ Chandar Yadav, R/o Village- Balachak, P.O.- Sadanandpur, P.S.- Balia, District- Begusarai.

.... Petitioner/s

Versus

1. The State of Bihar

.... Respondent/s

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Appearance :

For the Petitioner : Mr. Sandip Kumar Gautam, Advocate.

For the Respondent : Mr. Parmeshwar Mehta, APP.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

Date: 19-01-2018

With the consent of the parties, this revision petition is being disposed of.

2. The petitioner has been convicted under Sections 25(1-B)a, 26/ 35 of the Arms Act and has been sentenced to undergo R.I. for a term of three years, to pay a fine of Rs. 3000/- and in default of payment of fine, to further undergo R.I. for a period of three months for offence under Section 25(1-B) a, 26 and 35 of the Arms Act and R.I. for a period of three years, fine of Rs. 3000/- and in default of payment of fine, to further suffer R.I. for three months under Section 26/35 of the Arms Act; the sentences however having been ordered to run concurrently by judgment and order dated 22.02.2016 passed by the learned Judicial Magistrate, Ist Class,



Begusarai in Case No. 2881 of 2006 arising out of Ballia P.S. Case No. 206 of 2006. As against the aforesaid judgment and order of conviction, the petitioner preferred an appeal vide Criminal Appeal No. 70 of 2016 which was disposed off by judgment dated 22.06.2017 whereby the conviction of the petitioner was upheld but the sentence was modified to R.I. for one year for each of the offences and the fine was waived.

3. The petitioner was found to be in possession of a .31 bore indigenous pistol with a full length barrel and one live cartridge for which he had no explanation to offer.

4. The trial court after examining six witnesses on behalf of the prosecution and taking in account the documentary evidence convicted the petitioner as aforesaid.

5. The informant of this case who has been examined as P.W. 1 stated before the trial court that on the day when the petitioner was arrested with the firearm, he was posted as Inspector of Police. He had received information through a secret source about the petitioner being in possession of firearm. A raid was conducted and it was found by the police team that two persons were moving in a suspicious circumstance, creating an impression that they were running away from the line of gaze of the police. The petitioner was arrested and from his possession, a pistol and a live cartridge was



recovered. The other associate of the petitioner was named by the petitioner as Dhillon Yadav. P.W. 1 has further stated before the trial court that, on interrogation, the petitioner told him that there was a plan to commit murder of one Anil Yadav. The factum of recovery of the weapon as well as the cartridge has been proved by P.W. 1. The recovered pistol (Ext. x) and the live cartridge (Ext. x/1) were identified by him.

6. Lallan Kumar Das (P.W. 2) is the I.O. of this case who has testified that during investigation, he had received the sanction order from the D.M. and he also identified the signature of the D.M. who had accorded sanction to prosecute the petitioner. The sanction report (Ext. 4) and charge sheet (Ext. 5/1) were proved by him.

7. Similarly, Kishore Kumar (P.W. 3) who is an eye witness to the occurrence as being a member of the police team has supported the prosecution version and has stated that on seeing the police party, two of the miscreants started running away but the petitioner was apprehended and from his possession, firearm weapon was recovered. During the cross-examination the credibility of the aforesaid witness could not be impeached.

8. Md. Mushtaq and Md. Tanveer who have been examined as P.Ws. 4 and 5 have identified the petitioner and his



signature on the seizure list (Ext. 7). Both the aforesaid witnesses were the witnesses to the preparation of the seizure list and their identification of the petitioner as well as his signature on the seizure list establishes the fact that the petitioner was arrested on the spot and the firearm weapon was recovered from him.

9. On behalf of the defence, four witnesses were examined to demonstrate that no such occurrence had taken place and that the petitioner was falsely implicated in this case. Their stock defence before the trial court was of false implication of the petitioner because of village politics. The trial court, rightly and justifiably, did not find any reason to believe the deposition of the defence witnesses and in view of the major ingredients of the offences having been established, convicted the petitioner for the offences as aforesaid.

10. The appellate court has also agreed with the findings of the trial court but deemed it appropriate to reduce the sentences imposed upon the appellant to one year for each of the offences for which the petitioner was convicted and waived off the fine.

11. From the perusal of the judgments impugned, I do not feel any necessity of interfering with the same.

12. However considering the nature of accusation, the age of the petitioner and the attending circumstances of the case, I feel that the interest of justice would be sufficiently met if the petitioner is



sentenced to the period of custody which he has already undergone. This Court has been informed that the petitioner has remained in custody for about eleven (11) months by now.

13. The judgments and orders passed by the learned Judicial Magistrate, Ist Class, Begusarai in Case No. 2881 of 2006 arising out of Ballia P.S. Case No. 206 of 2006 and the learned Sessions Judge, Begusarai in Cr. Appeal No. 70 of 2016 is modified to the extent that the sentence imposed upon the petitioner is reduced to the period of custody which he has already undergone.

14. The revision petition is partly allowed

15. If the petitioner is not wanted in any other case, he be released forthwith from jail.

16. A copy of the judgment be communicated to the superintendent of the concerned jail for information, compliance and record.

(Ashutosh Kumar, J)

KKSINHA/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	23.01.2018
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