

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.303 of 2017

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Arun Yadav, Son of Deo Nandan Yadav, resident of village - Bigalpur, P.S. Bihra,
District - Saharsa

.... Petitioner/s

Versus

The State of Bihar

.... Respondent/s

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Appearance :

For the Petitioner/s : Mr.

For the Respondent/s : Mr.

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CORAM: HONOURABLE MR. JUSTICE ARUN KUMAR

ORAL JUDGMENT

Date: 04-01-2018

Heard learned counsel for the petitioner and learned
counsel for the State.

2. Petitioner has preferred this revision application
against impugned judgment and order dated 15.12.2016 passed by Mr.
Rudra Prakash Mishra, Sessions Judge, Saharsa in Cr. Appeal No. 40
of 2016 thereby affirming the conviction and order of sentence dated
26.10.2016 passed by the A.C.J.M., 1st Class, Saharsa in G.R. Case
No. 213 of 2015, to undergo three years rigorous imprisonment along
with fine of Rs. 8000/- and in case of non-payment of fine amount,
further to undergo six months simple imprisonment, reduced the
period of sentence to one and half year.

3. The prosecution case in brief is that Officer-in-charge
of Bihra Police Station, informant of the case, received secret



information that some miscreants had assembled near Bijalpur Khadipur PACS Godown, reached there with police force. Seeing the police, miscreants started fleeing away but two persons were apprehended including the petitioner, who disclosed his name and on search of their body, a country made pistol and live cartridges of 3.15 bore with specific number mentioned on it and one empty cartridge were recovered from the waist of the petitioner but no document of the seized arms was produced. The police on conclusion of investigation, submitted charge sheet after getting sanction order.

4. Altogether four prosecution witnesses were examined during trial thereafter the trial court passed the judgment of conviction and order of sentence and the same was affirmed by the appellate court.

5. Learned counsel for the petitioner assailed the concurrent findings of both the courts below on the ground that seizure list witnesses have turned hostile and not supported the case of the prosecution; secondly that the sergeant major, who had examined the seized arms found it defective, too has not been examined. He has also placed reliance on a decision of ***Ranjeet Kumar Singh vs. The State of Bihar*** reported in ***2002(4) PLJR 450*** and submits that in that case also independent witness had not supported the seizure and rest other witnesses were police officials and considering the said facts



sentence of one year was reduced to the period already undergone. Learned counsel has not been able to explain how non-examination of the sergeant major, who examined the seized arms, has prejudiced the case of the accused and in cross-examination of any of the witnesses, genuineness of that document was not challenged before the trial court.

6. Having considered the rival submissions and on perusal of record, the Court finds that even PW-1, Sitaram Yadav, the seizure list witness, admits his signature on the seizure list though in other respect he has turned hostile, however, the rest other witnesses PW-2, Rameshwar Safi (informant), PW-3 Binod Kumar, Investigating Officer and PW-4, Nehru Roy, a member of the police party, have supported the case of the prosecution and there is no major contradiction in their evidence to disbelieve their testimony. Only because these witnesses are police personnel, so *ipso facto* their testimony cannot be disbelieved, unless there is any major contradiction or if there is any malice between those police personnel and accused, but that is not the case. So no miscarriage of justice has been done to the petitioner as there is no error in finding of conviction and order of sentence under Section 25(1-B)a of the Arms Act. However, period of sentence of the petitioner has already been reduced by the appellate court to one year and six months from



reducing the period of sentence of three years awarded by the trial court, which is an appropriate sentence. Accordingly, this application stands dismissed.

(Arun Kumar, J)

Sujit/-

AFR/NAFR	NAFR
CAV DATE	NA
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