

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Revision No.1155 of 2017

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Chandra Bhushan Sharma, Son of Ram Bharosi Sharma @
Ram Bharosh Sharma, Resident of Village- Sripur, Ward No.
3, P.S. Cheriya Bariyarpur, District Begusarai.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sandip Kumar Gautam, Adv.

For the State : Mr. Ajay Kumar Jha, Adv.

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

5 27-03-2018 The petitioner/Chandra Bhushan Sharma was convicted for the offences punishable under Sections 25(1-B)(a), 26(i) and 35 of the Arms Act, 1959 (*in short "the Act"*) by judgment and order dated 27.04.2016, passed by the learned Trial Court, *i.e.*, the Court of learned Sub-Divisional Judicial Magistrate, Manjhaul, Begusarai in Sessions Trial No. 880 of 2015, arising out of Cheriya Bariyarpur P.S. Case No. 203 of 1998, whereby he has been sentenced to undergo rigorous imprisonment for



three years for each of the offences, to pay a fine of Rs. 10,000/- each and in default of payment of fine, to suffer simple imprisonment for six months. The sentences having been ordered to run concurrently.

The aforesaid judgment and order of conviction was challenged in appeal *vide* Cr. Appeal No. 57 of 2016. The Appellate Court *vide* judgment dated 24.08.2017, upheld the conviction of the petitioner under Section 25(1-B)(a), 26(i) and 35 of the Act, but modified the sentence imposed by the Trial Court to rigorous imprisonment for one year each for both the offences. The amount of fine was allowed to remain the same. The default clause also was not interfered with by the Appellate Court.

The present petition impugns both the judgments passed by the courts below.

A perusal of the record reveals that the Officer-In-Charge of Cheria Bariyarpur Police Station lodged a self-statement which became the basis of the case in which the petitioner has been convicted. In the aforesaid self-statement, lodged on 10.12.1998, it has been alleged that on secret information that in the house of the petitioner, illegal arms are being manufactured, a raid was conducted. In the raid, several arms and ammunitions and articles which could be used for manufacturing of arms



were recovered. No satisfactory explanation could be given by the petitioner. The seizure was made in front of two independent witnesses, viz. Hare Ram Mahton and Janardan Sharma.

Twelve prosecution witnesses were examined by the Trial Court.

On behalf of the petitioner, two witnesses were offered.

An attempt was made by the petitioner before the Trial Court to explain that he was not present at the place of occurrence, *i.e.*, where the raid had been conducted and arms had been recovered. Two station diary entries were brought to the notice of the Trial Court, which were entered in the relevant books within a short span of three and half hours. In both the station diary entries, the petitioner was shown to have been arrested at two different places. Thus, the main plank of defence of the petitioner before the Trial court and before the Appellate Court was that his presence at the place where the arms were recovered was absolutely doubtful.

It was further contended by the petitioner before the Trial Court as well as the Appellate Court that the independent persons before whom seizure was effected have not supported the prosecution version. It



was also agitated that no independent person was asked to step in the witness-box to depose against the petitioner. All the witnesses examined on behalf of the prosecution were police witnesses.

However, the Trial Court did not agree with the contentions of the petitioner and returned the verdict of guilt against him by convicting and sentencing him under Sections 25(1-B)(a), 26(i) and 35 of the Arms Act.

The Appellate Court, after perusing and re-appraising the evidence, agreed with the findings of the learned Trial Court and, thus, did not interfere with the conviction.

However, regard being had to the fact that the case was instituted in the year 1998 and the judgment by the Trial Court was delivered in the year 2016, whereas the appeal was preferred in the year 2017, the Appellate Court thought it expedient/prudent to reduce the sentence to rigorous imprisonment for one year under both the counts, the sentences to be executed concurrently.

The minimum sentence now, which can be imposed against a convict under Sections 25(1-B)(a) and 26(i) of the Act, is one year.

No interference is, thus, required either with the conviction or the quantum of sentence.



There is no merit in the revision petition. The same is, accordingly, dismissed.

(Ashutosh Kumar, J)

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