

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.1248 of 2018

Arising Out of PS. Case No.-80 Year-2003 Thana- NARHATT District- Nawada

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Pappu Chauhan, S/o Ghamandi Chauhan @ Rameshwar Chauhan, R/o
Village- Pandui (Barat Beldari), P.S.- Sitamarhi, Dist.- Nawada.

... .. Petitioner

Versus

The State of Bihar.

... .. Respondent

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Appearance :

For the Petitioner/s : Mr. Birendra Kumar
For the Respondent/s : Mr. Satyavarat Verma

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CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

3 13-12-2018 This revision application has been filed against the judgment dated 30.8.2018 passed by Additional Sessions Judge, Nawada in Cr. Appeal No. 36 of 2017 by which he has affirmed the judgment and order of conviction and sentence dated 22.9.2017 passed by Additional Chief Judicial Magistrate-IV, Nawada and reduced the period of sentence from two years to six months under Sections 25(1-B)(a) and 26(1) of Arms Act.

Case, in short, is that petitioner was arrested by police personnel and one country-made pistol was recovered from his waist and on the basis of that Narhat (Sitamarhi) P.S.Case No. 80 of 2003 dated 16.10.2003 was registered under Sections 25(1-B)(a) and 26 of the Arms Act and after due investigation charge sheet was submitted, cognizance was taken and thereafter the case was placed for trial.



It appears that during trial six witnesses have been examined on behalf of prosecution and apart from that some documents have been taken into evidence as Exts. 1 to 7, they are seizure list, sanction order, fardbeyan, signature on FIR of informant and signatures of seizure list witnesses on seizure list.

Statement of accused person has been recorded.

Learned trial court on conclusion of trial has convicted the petitioner under Sections 25(1-B)(a) and 26(1) of the Arms Act and sentenced to undergo rigorous imprisonment for two years and a fine of Rs.2000/- under Section 25(1-B)(a) of Arms Act and further sentenced to undergo rigorous imprisonment for two years and a fine of Rs.2000/- under Section 26(1) of the Arms Act and in default of payment of fine he has been further directed to undergo rigorous imprisonment for three months and all the sentences were directed to run concurrently.

Petitioner has preferred Cr.Appeal No. 36 of 2017 against the judgment and order of trial court and learned Sessions Judge while dismissing the appeal modified the sentence by reducing the sentence to six months under Sections 25(1-B)(a) and 26(1) of the Arms Act.

Being aggrieved by the aforesaid judgment and order



the present revision application has been preferred by the petitioner on the ground that in this case only a country-made pistol has been recovered and without cartridge there is no use of pistol and further ground is that in this case Sergeant Major has not been examined and as such there is no legal evidence available on record to show that the pistol was in working condition.

Heard learned APP for the State, who has supported the judgment of conviction passed by both the courts below and submitted that learned appellate court has taken a lenient view in the matter and reduced the period of sentence from two years to six months R.I.

Having heard both sides and on perusal of the record it appears that the evidence of the witnesses was well discussed by both the courts and Pws. 1 to 3 are on the point of recovery of the pistol from the possession of petitioner, PW 4 is a witness of material exhibit and country-made pistol has been produced in court which has been marked as material Ext.I and in spite of cross examination there is nothing in his evidence to show any doubt about the recovery of pistol from the petitioner. No witness has been examined by the petitioner nor any document has been produced to disbelieve the testimony of the witnesses.



No doubt, Sergeant Major has not been examined in this case but the report has been brought on the record which appears from the judgment.

Considering the aforesaid facts and circumstances this Court finds that the findings arrived at by both the courts are findings of fact which does not suffer from any illegality and based on appreciation of fact, as such cannot be interfered with by this Court in revisional jurisdiction of this Court, as such, this revision application is dismissed having no merit.

However, the period already undergone in custody of the petitioner during investigation and trial is directed to be set off under the provisions of Section 428 of the Code of Criminal Procedure.

(Vinod Kumar Sinha, J)

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