

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.1320 of 2018

Arising Out of PS. Case No.-284 Year-2017 Thana- KUDRA District- Bhabhua (Kaimur)

Devanand Tiwari Son of Late Dinesh Tiwari, resident of Village- Lodhi, P.S.
Chenari, District- Rohtas (Sasaram).

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Pawan Kumar Singh
For the Respondent/s : Mr. Sri Kalyan Shankar

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

3 14-12-2018 This revision application is directed against the judgment and order dated 13.09.2018 passed by the learned Additional District & Sessions Judge -VI, Kaimur at Bhabhua in Criminal Appeal No. 36/5 of 2008, whereby and whereunder, he has affirmed the judgment and order dated 20.06.2018 passed by the learned A.C.J.M -VI, Kaimur at Bhabhua in G.R. No. 2904/2017 and upheld the conviction under Section 25(1-B)a of Arms Act as well as sentence of R.I. for two years with a fine of Rs. 3,000/- and set aside the conviction and sentence of the petitioner under Section 26(1) of the Arms Act.

Prosecution case is that on the basis of self statement of S.H.O. Kudra police station, F.I.R was registered stating, therein that he received information that some persons after snatching a mobile are fleeing away and on that police reached



at the place of occurrence and chased the miscreants and arrested the petitioner and one co-accused Luky Kumar. Thereafter, in presence of independent witnesses, search was made and from the possession of petitioner one loaded katta with one empty cartridge and one mobile phone was recovered. Accordingly, seizure list was prepared and both the accused were taken into custody.

On the basis of the said written statement Kudra P.S. Case No. 284/17 was registered under Sections 25(1-B)a, 26 of the Arms Act and Section 414 of Indian Penal Code.

During trial, four witnesses were examined; They are PW1- Sudama Kumar Singh (S.H.O. and informant of the case), PW2 - Ashutosh Kumar (A.S.I), PW3- Sheo Shankar Pathak (I.O. of the case), PW4 – Bipin Narayan Sharma (Seargent Major).

Apart from that several documents have been brought on record as exhibits including production -cum-seizure list, written report, formal F.I.R, Sanction report, charge-sheet and report of sergeant major. Besides, the above documentary evidence, prosecution also produced some materials i.e. two recovered katta, one recovered empty cartridge and two recovered mobiles which are material Ext. I to Ext. V.



Learned Trial Court on conclusion of trial convicted the appellant – petitioner under Section 25(1-B)a and 26(1) of the Arms Act and sentenced him to undergo R.I. for two years, each under Section 25(1-B) and 26(1) of the Arms Act, with a fine of Rs. 3,000 and in default of payment of fine S.I. for 03 months.

Against the said judgment, the appellant – petitioner preferred Criminal Appeal No. 36/5 of 2008 before the learned Sessions Judge, Kaimur at Bhabhua and the learned Sessions Judge after perusal of the evidence as well as materials available on record, dismissed the appeal with modification to the extent that he set aside the conviction and sentence of the appellant – petitioner under Section 26(1) of the Arms Act. However, upheld the conviction and sentence of the appellant – petitioner under Section 25(1-B)a of the Arms Act.

Being aggrieved, the petitioner preferred the present revision application.

Learned counsel for the petitioner after some argument, confined his argument only to the extent of question of sentence, stating that this is the first offence of the petitioner and there is nothing on record to show that he has previously been made accused or convicted in connection with any other



case, as such, sentence of R.I. for two years and fine of Rs. 3,000/- under Section 25(1-B)a of the Arms Act appears to be excessive one and a lenient view may be taken and the period of his sentence may be reduced to the period already undergone by him in judicial custody, as in this case, he has been in judicial custody since 24.11.2017.

Having heard both sides, considering the facts and circumstances of the case and also the fact that there is nothing available on record to show that he has previously been convicted in connection with any other case and since it is his first offence, a lenient is being taken and his sentence is reduced to the period already undergone by him in judicial custody.

With the above modification in sentence, this revision application is dismissed.

(Vinod Kumar Sinha, J)

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