

HIGH COURT OF CHHATTISGARH, BILASPUR

CRA No. 123 of 2003

Dilbag Singh, aged 30 years, S/o Kashmirasingh, Occupation Driver, R/o Village Khawaspur, P.S. Govindbad, District Amritsar (Punjab), presently R/o New Khursipar Punjabi Mohalla, Bhilai, O.P. Khurshipar, P.S. Chhawani, District Durg (C.G.)

---- Appellant

Versus

State of Chhattisgarh, through the In-charge Inspector, Supela, District Durg (C.G.)

---- Respondent

For the Appellant	:	None
For the State	:	Ms. M. Asha, Panel Lawyer

Hon'ble Shri Justice Sharad Kumar Gupta

Judgment On Board

05/05/2018

1. Looking to the facts and circumstances of the case, I am disposing of the appeal on merits.
2. In this appeal, challenge is levied to the judgment of conviction and order of sentence dated 13/12/2002 of 4th Additional Sessions Judge, Durg (C.G.) in S.T. No. 279/2001, whereby and whereunder the appellant is convicted and sentenced for the offences punishable under Sections herein as under :-

Under Section 393, read with Section 397 of I.P.C.	R.I. for Seven years and fine of Rs.5000/-, in default of payment of fine R.I. for six months
Section 25(1-B) Arms Act	R.I. for one year

Section 27 of Arms Act	R.I. for three years and fine of Rs.1000/- in default of payment of fine R.I. for one month All the sentences are run concurrently.
------------------------	---

3. In brief the prosecution story is that on 21/05/2001 near about 11 p.m. appellant and co-accused Balvinder Singh reached in a petrol pump namely M. Habib Bhai at Nehru Nagar, Bhilai, appellant shown the country made pistol to the salesman Md. Arif Khan and told him that he give the entire cash kept in the cash box otherwise he will fire on him. Appellant fired but bullet hit the wall. Md. Arif Khan snatched the country made pistol from appellant two live cartridges were present in that pistol. Appellant and co-accused fled away from the spot. Md. Arif Khan lodged the police report in Police Station, Supela. After completion of the investigation, a charge-sheet was filed against the appellant and co-accused.
4. After conclusion of the trial, trial Court convicted and sentenced the appellant as aforesaid. Trial Court also convicted and sentenced co-accused Balvinder Singh under Section 393 read with Section 34 of IPC to undergo RI for 3 years and to pay fine of Rs.2000/-, in default of payment of fine to further undergo RI of three months.
5. As per the report of the Superintendent, Central Jail, Raipur dated 09/03/2015 appellant had deposited the fine amount and released after getting the benefit of remission on 15/07/2005 after completion of the jail sentence.

6. Shri Tarun Dansena, Advocate was appointed by the Legal Aid Committee to the present appellant, however, none appears at the time of hearing.
7. Learned State counsel supported the impugned judgment of conviction and order of sentence and submitted that the appellant has rightly been convicted and sentenced on the basis of the evidence available on record.
8. PW-1 Md. Arif Khan says in para 2,3 and 5 of his statement given on oath that appellant and co-accused Balvinder Singh were reached in the petrol pump where he was working. Appellant Dilbag Singh kept out and shown the country made pistol and told the entire cash should be handed over to him, otherwise he will shoot him. Appellant fired but cartridge hit the wall. He snatched the country made pistol. He went to police station and handed over the country made pistol to police officials. He had identified the appellant and co-accused in Test Identification Parade.
9. PW-6 Pulak Bhattacharya, Naib Tahsildar, Durg says on para 1 he had conducted the T.I. Parade of appellant and co-accused Balvinder Singh.
10. As per the alleged seizure Ex.P/2 one country made pistol and one empty cartridge and some other articles and one purse were seized from Md. Arif Khan by PW-9 Sub Inspector Basant Kumar Mishra.
11. As per the Test Identification Parade Ex.P/3 Md. Arif Khan had identified appellant and co-accused Balvinder Singh.

12. As per the order of District Magistrate, Durg Ex.P/4. A prosecution sentenced under Section 39 of the Arms Act 1959 was granted by the District Magistrate, Durg.
13. As per the alleged seizure ExP/5 two live cartridges were seized from the appellant.
14. As per the report Ex.P/6, PW-8 Head Constable Mustafa had examined one country made pistol, two live cartridges, one empty cartridge and opined that said country made pistol was in working condition, fire was made from it, empty cartridge was fired from that pistol, two live cartridges may be fired from that pistol.
15. Looking to the aforesaid circumstances, this Court finds that the trial Court has not committed any error in convicting and sentencing the appellant as aforesaid.
16. Thus, the appeal being devoid of substance, deserves to be dismissed and is hereby dismissed.
17. As the appellant has already been released on 15/07/2005 on completion of jail sentence, getting benefit of remission, no further order is required.

Sd/-

(Sharad Kumar Gupta)
Judge