

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No.1132 of 2012**

Narendra Shukla, son of Ramkripal Shukla, aged about 30 years, R/o. Village Jamuniha, Thaha Kotma, District Anuppur, Madhya Pradesh

---- Appellant**Versus**

State Of Chhattisgarh, Through Station House Officer, Sarkanda, Distt. Bilaspur (CG)

---- Respondent

For the appellant : Shri TK Tiwari, Advocate

For the respondent/State: Shri Lav Sharma, Panel Lawyer

Hon'ble Shri Justice Ram Prasanna Sharma**Judgment On Board****14.12.2018.**

1. Shri Vinay Dubey Advocate has been engaged by the appellant, but despite repeated calls, none appeared, therefore, Shri TK Tiwari, Advocate present in the Court is appointed as amicus curiae to argue the matter on behalf of the appellants

2. This appeal is directed against the judgment dated 29.11.2012 passed by Fourth Additional Sessions Judge, Bilaspur (CG) in Session Trial No.85/2010 wherein the said Court convicted the appellant for commission of offence under Section 25(1B) of the Arms Act, 1959 and sentenced him to undergo rigorous imprisonment for three years and to pay fine of 1000/- with default stipulation.

3. As per the case of the prosecution, on 05.11.2009 secret information was received by Head Constable Hemant Aditya (PW-4) that two suspicious persons wandering on TVS Victor Motor

Cycle bearing registration No.CG 10 G 4492 and they are having pistol and explosive substances. On the basis of the said information, the police personals searched the appellant and found him in possession of one country made pistol with five live cartridges magazine and 12 other live cartridges. Notice was supplied to present appellant for producing licence to possess fire arms and cartridges, but he failed to produce any documents. The matter was reported and sanction for prosecution was obtained from District Magistrate as per Ex-P/6 and the appellant was charge sheeted. After completion of the trial, the appellant was convicted and sentenced as mentioned above.

4. Learned counsel for the appellant submits as under:

(i) There is no material evidence to connect the appellant with crime in question and he is a handicapped person who has been falsely implicated.

(ii) Version of the prosecution witnesses do not corroborate with the case of the prosecution and in absence of cogent and material evidence, the finding arrived at by the trial Court is liable to be set aside.

5. On the other hand, learned counsel for the State supporting the impugned judgment would submit that the finding of the trial Court is based on proper marshaling of the evidence and the same is not liable to be interfered while invoking the jurisdiction of the appeal.

6. I have heard learned counsel for the parties and perused the record.

7. From the evidence of Hemant Aditya (PW-4) who is the Head Constable and Head Constable Jitesh Chandra (PW-5) and Head Constable Vijay Sharma (PW-6) it is established that the appellant was in possession of country made revolver, cartridge magazine and the same seized from him. Head Constable Jugal Kishore (PW-7) was posted at Arms Work Shop of Reserve Line of Police and he examined the seized country made revolver and cartridge and found that the revolver is fit to fire and the cartridges are live cartridges and can be fired by said fire arm. All the witnesses have been subjected to searching cross-examination but nothing could be elicited in favour of the appellant.

8. Sanction was obtained from District Magistrate as per Ex-P/6 after producing relevant documents. In this way Section 39 of the Act 1959 was complied with. Version of the defence is mere denial and the same is merit less. There is a provision for licence to possess fire arms and cartridge but in the present case the appellant had no licence and he was in possession of the fire arm without licence which is in contravention of Section 3 of the Act 1959 and is punishable under Section 25(1B) of the said Act for which the trial Court convicted him.

9. After reassessing the evidence, this Court has no reason to record a contrary finding with what is recorded by the trial Court. Conviction of the appellant for the said offence is hereby affirmed.

10. Heard on the point of sentence.

The trial Court awarded RI for three years for offence under Section 25(1B) of the Arms Act, 1959 which is neither harsh nor

disproportionate, therefore, sentence part is not liable to be interfered with.

11. Accordingly, the appeal being devoid of merit is liable to be and is hereby dismissed. As per the report, the appellant has been released from jail after serving the full jail sentence awarded to him and after remission granted to him by the jail authorities. In view of this no further order is required for his arrest.

**Sd/-
(Ram Prasanna Sharma)
JUDGE**