

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRA-S-2299-SB-2004

Date of Decision: 07.09.2018

Gurdev Singh

....Appellant

Versus

State of Punjab

....Respondent

CORAM: HON'BLE MR. JUSTICE T.P.S. MANN

Present: Mr. L.S. Sidhu, Advocate, for the appellant.

Mr. Sarabjit Singh Cheema, Asstt. A.G., Punjab.

T.P.S. Mann, J (Oral).

The appellant was tried for committing an offence punishable under Section 29 of the Arms Act. Vide judgment and order dated 08.11.2004, learned Additional Sessions Judge, Amritsar, convicted him for the aforementioned offence and sentenced him to undergo rigorous imprisonment for a period of one year and to pay a fine of Rs.500/- and in default of payment of fine, to further undergo rigorous imprisonment for a period of two months. The period of detention already spent by him during investigation and trial was ordered to be set off against the substantive sentence.

According to the prosecution, the appellant had a .12 bore double barrel licenced gun bearing No.20568-97, which he allowed to be used by Karambir Singh, for committing the murder of Paramjit Singh.

In support of its case, the prosecution had examined 10 witnesses.

PW1-Sukhwinder Singh, Arms Clerk in the office of District Magistrate, Amritsar, proved the factum of registration of the .12 bore DBBL gun in the name of the appellant.

PW2-Kiranjit Singh, who is brother of deceased Paramjit Singh, stated that Paramjit Singh was a go-between in the marriage of daughter of Karambir Singh with Kanwar Sehbaz Singh. As Jujbir Singh son of Karambir Singh, was objecting to the said marriage, he could not tolerate the same and committed suicide. So, Karambir Singh was nursing a grudge against Paramjit Singh. He further stated that on 10.04.2003, he alongwith his father and one Baljit Singh was sitting at their house when Karambir Singh fired upon Paramjit Singh with .12 bore DBBL gun. The fire struck on the face of Paramjit Singh. He (Karambir Singh) tried to fire another shot, but the direction of the fire was changed and the shot hit the wall. Paramjit Singh died at the spot. This witness also proved on record his statement Ex.PA made before the police.

PW3-Sawinder Singh, stated that he had taken in possession the .12 bore DBBL gun. He recovered one empty and blood stained clothes of Karambir Singh.

PW4-Rishi Ram had prepared the scaled site plan.

PW5 is LC Sarwan Singh. He stated that on 17.4.2003, MHC Davinder Singh handed over to him one sealed parcel with

the seal 'HC' and he deposited the same in Forensic Science Laboratory.

PW6-SI Harjinder Singh, is the Investigating Officer of the case. He stated that after reaching the spot, he had prepared the inquest report Ex.PC and the dead body was sent for the post mortem. One empty cartridge and a blood stained pillow were recovered from the place of occurrence. After preparing their separate parcels and putting thereon the seal of 'HS', the same were taken into possession by the police. After the arrest of the accused, the aforesaid gun was recovered from his possession. Blood stained clothes of the accused were also taken into police possession. HC Daljit Singh handed over to him clothes of the deceased. On 11.4.2003, a raid was conducted at the house of appellant-Gurdev Singh, where his wife Sukhjinder Kaur was present and she had given the police the licence of .12 DBBL gun.

PW7 to PW9 are the formal witnesses. PW10-Sushma Rani, Reader to Naib Tehsildar, had proved on record the sanction Ex.PQ.

During his examination under Section 313 Cr.P.C., the appellant denied the allegations of the prosecution and stated that the police had taken his gun from his house and after firing two shots from the barrel, the empties and cartridges were sent to the Forensic Science Laboratory. He also stated that his gun was never used by accused Karambir Singh. However, in his defence, he did not lead any evidence.

After hearing learned counsel for the parties and on going through the record, this Court finds that the prosecution has been successful in establishing that the .12 bore DBBL gun, of which the appellant was the lawful holder, was used by Karambir Singh in firing at Paramjit Singh. Various witnesses examined by the prosecution in support of its case, have categorically and unequivocally deposed in support of the prosecution case. The two empties recovered from the spot were picked up by the police during the investigation of the case. The licence of .12 bore DBBL gun belonging to the appellant was handed over to the police by the appellant's wife. The gun as well as the two empty cartridges were examined in the Forensic Science Laboratory and both the empties tallied with the left barrel of the gun in question. Karambir Singh was not authorized or entitled to use the gun in question. As the appellant had allowed him to use the same, the commission of offence under Section 29 of the Arms Act, by the appellant, is duly established.

As regards the quantum of sentence, it may be noticed that the appellant has been facing the agony of the criminal prosecution for the last more than 15 years. When he was examined by the learned trial Court under Section 235 Cr.P.C., he had pleaded that he was a first offender. As per the custody certificate already brought on record by the learned State counsel, he has undergone 23 days. He is not shown to be either involved or convicted in any other case, apart from the present case.

Taking into consideration the totality of the circumstances, this Court is of the view that the appellant, who is on bail for the last more than one decade, need not be sent behind the bars, once again, for undergoing his remaining sentence. Ends of justice would be suitably met if his substantive sentence of imprisonment is reduced to the one already undergone by him.

Resultantly, the conviction of the appellant under Section 29 of the Arms Act, is upheld. His substantive sentence of imprisonment is, however, reduced to the one already undergone by him. The fine of Rs.500/- is, however, enhanced to Rs.5,000/-. The enhanced amount of fine be deposited by him in the Court of learned Chief Judicial Magistrate, Amritsar, within a period of three months from today, failing which he shall be required to undergo rigorous imprisonment for two months.

The appeal is accordingly disposed of. The bail and surety bonds already furnished by the appellant, shall stand discharged.

(T.P.S. MANN)
JUDGE

07.09.2018
ds

Whether reasoned/speaking
Whether reportable

Yes/No
Yes/No