

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Revision No.1366 of 2018

Arising Out of PS. Case No.-104 Year-2017 Thana- JAMHOR District- Aurangabad

Vinay Singh Son of Sukhdeo Singh, resident of Village- Chichmi, P.S. Jamhore, District Aurangabad Bihar.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Sada Nand Roy, Adv
For the Respondent/s : Mr. Ram Sevak Choudhary, APP

CORAM: HONOURABLE MR. JUSTICE S. KUMAR
ORAL JUDGMENT

Date : 21-01-2019

Heard parties.

2. This criminal revision petition has been filed against the judgment and order dated 28.09.2018 passed by learned Sessions Judge, Aurangabad, in Criminal Appeal No. 50 of 2018 by which the learned Court has dismissed the appeal filed against the judgement and order dated 07.05.2018 passed by learned Chief Judicial Magistrate, Aurangabad in Jamhore PS case No. 104 of 2017 (GR number 1926 of 2017) by which petitioner was convicted under section 25(1-B)a of the arms act and sentenced to undergo rigorous imprisonment for 2 years and fine of Rs. 2000 and in default to undergo simple imprisonment for 15 days and further convicted under section 26 of Arms Act and sentenced to undergo rigorous imprisonment of 6 months



and fine of Rs. 1000 and in default to undergo simple imprisonment for seven days. Both the sentences to run concurrently.

3. Prosecution case is that a secret information was received by the informant on 31-10-2017 at about 11:45 a.m. that Vinay Singh petitioner is carrying illegal arms and has created panic in the locality. Informant on making entry in the station diary with other police personnel reached the village Chichmi near the house of Nagendra Singh and on seeing the police party one person tried to flee away however he was apprehended after chase and he disclosed his name as Vinay Singh (petitioner) and in presence of two independent witnesses one country made pistol and one cartridge was recovered from his pocket and on the basis of self statement of Informant Jamhore PS case No. 104 of 2017 dated 31.10.2017 was registered and investigation of the case was entrusted to R. Yadav ASI who conducted investigation and submitted chargesheet upon which, cognizance of the offence was taken and charges were framed against petitioner under section 25(1-B)a and 26 of the Arms Act which was denied by the petitioner and he claimed to be tried.

4. Prosecution has examined three witnesses in



support of the charge in which PW-1 is Avinash Kumar informant, PW-2 is Ramnath Singh Sargeant Major, and PW-3 is Rajnandan Yadav Investigating Officer. Prosecution has also proved seizure list as Exhibit-1, self statement of Informant as Exhibit-2 and its registration as Exhibit-2/A and the formal FIR as Exhibit-3 and report of Sargeant Major as Exhibit 4 and sanction order of the DM as Exhibit-5, the seized country made pistol material Exhibit-I and the cartridge as material Exhibit-2.

5. The defence has neither adduced any oral or documentary evidence in its defence. The prosecution has been able to establish the information received by Informant which has been entered in the station diary and thereafter Informant with other police personnel went to the place of occurrence and petitioner was apprehended while he was trying to escape and country made pistol was recovered with 8 MM cartridge in presence of two independent witnesses. Seizure list was prepared and a copy of which was handed over to the petitioner. Pistol was sealed and same was sent to Sargeant Major PW-3 for inspection and after obtaining permission from the court, found the seized pistol in working condition and also fired the cartridge with the seized pistol which was found in working condition. The sanction order was given by the District



Magistrate.

6. The trial court has found the charges levelled against the petitioner to be proved beyond reasonable doubt and has held him guilty under section 25(1-B)a and 26 of the Arms Act, and sentenced to undergo rigorous imprisonment for 2 years and fine of Rs. 2,000 for the offence under section 25(1-B)a of the Arms Act and in default of which to undergo simple imprisonment for 15 days and also convicted under section 26 of the Arms Act and sentenced to undergo rigorous imprisonment for 6 months and in default to further undergo simple imprisonment for 7 days. Both the sentences were to run concurrently. Petitioner had preferred appeal giving rise to Criminal Appeal No. 50 of 2018, which was heard by learned Sessions Judge, Aurangabad, and on consideration of evidence on record did not find any illegality or irregularity in the order passed by the trial court and dismissed the appeal on 28.09.2018, against which present revision has been preferred.

7. After going through the judgment of conviction and order of sentence passed by the trial court as well as appellate Court convicting petitioner under section 25(1-B)a and 26 of the Arms Act and passing sentence of 2 years rigorous imprisonment with fine of Rs.2,000/- and 6 months rigorous



imprisonment with fine of Rs. 1000/- this Court does not find any error in the judgment and order passed by the trial court and appellate court.

8. However, the sentence passed by the trial court and affirmed by the appellate court is reduced to the period already undergone.

9. Subject to the aforesaid modification, the revision petition stands dismissed.

(S. Kumar, J)

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AFR/NAFR	NAFR
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