

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.210 of 2018

Arising Out of PS. Case No.-206 Year-2016 Thana- KUCHAIKOTE District- Gopalganj

Sudhir Kumar Singh @ Sudhir Kr. Singh @ Sudhir son of Becha Singh @
Parasuram Singh, Resident of Village- Badki Rohada Kailgarh, P.S. Barharia,
District- Siwan.

... .. Petitioner/s

Versus

The State Of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Javed Aslam, Advocate

For the Respondent/s : Mr. Jharkhandi Upadhyay, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH
ORAL JUDGMENT

Date : 12-07-2019

Heard learned counsel for the petitioner and learned APP
for the State.

2. The petitioner has moved the Court against the
judgment and order dated 15.01.2018 passed in Criminal Appeal
No. 92 of 2017 (CIS No. 92 of 2017) by the Additional Sessions
Judge, VIII, Gopalganj by which the judgment and order of
conviction and sentence dated 28.11.2017 passed by the Additional
Chief Judicial Magistrate XIII, Gopalganj in GR No. 3006 of
2016/ Registration No. 9307 of 2016 arising out of Kuchaikote PS
Case No. 206 of 2016 has been upheld.

3. The petitioner along with two others was allegedly
trying to snatch the motorcycle of one Pawan Kumar as also his
laptop and mobile phone and upon shouting people had come and



caught the petitioner but other two persons managed to run away. It is alleged that upon search, from the personal possession of the petitioner, one country made pistol, one live cartridge and one mobile phone were recovered. Upon trial, the petitioner was convicted under Sections 25(1-B)(a) and 26/35 of the Arms Act, 1959 (hereinafter referred to as the 'Act') and sentenced to undergo rigorous imprisonment for three years under Sections 25(1-B)(a) of the Act and also fine of Rs. 5,000/-. The same sentence was passed under Section 26 of the Act. In default of payment, the petitioner was to undergo simple imprisonment for further two months under each count. However, sentences were directed to run concurrently.

4. Learned counsel for the petitioner submitted that though two independent witnesses are said to have signed on the seizure list but they were not examined during trial. It was further submitted that one of the witnesses, i.e., PW-1 has stated that the seizure list was prepared at the police station which falsifies the seizure at the place of occurrence, and, therefore, the conviction and sentence is bad in law.

5. Learned APP, upon going through the Lower Court Records, submitted that non-examination of seizure list witnesses would not be fatal for the prosecution and more importantly with



regard to the seizure being made at the spot; four witnesses have consistently stated that it was done at the place of occurrence whereas only one witness has stated that it was done at the police station which also is of no consequence and would not weaken the prosecution case. Learned counsel submitted that the recovery being made from the person of the petitioner in the background that he had also confessed about him shooting a person earlier in another case and being imprisoned, having come out of jail only ten days prior to the incident, does not entitle him for any indulgence and that the prosecution has been able to prove its case beyond reasonable doubt.

6. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties and having gone through the trial Court's order as well as the appellate order, the Court finds that the same are well considered and the conclusions drawn are logical and cannot be said to be arbitrary or without any basis, both on facts as well as in law. Thus, the Court does not find any ground for interfering in the orders impugned and accordingly, the application stands dismissed.

7. The bail bonds of the petitioner stand cancelled. He is directed to surrender before the Court below within two weeks from today to undergo the remaining period of his sentence as per



the judgment and order dated 28.11.2018 passed by the Additional Chief Judicial Magistrate XIII, Gopalganj in GR No. 3006 of 2010/ Registration No. 9307 of 2017 arising out of Kuchaikote PS Case No. 206 of 2016.

8. Let the Lower Court Records be returned forthwith.

(Ahsanuddin Amanullah, J)

Anjani/-

AFR/NAFR	
U	
T	

