

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.141 of 2018

Arising Out of PS. Case No.-73 Year-2005 Thana- TERHAGACHH District- Kishanganj

Bishandeo Singh S/o Prem Lal Singh, R/o Village- Kajlata, P.S.- Tedhagachh,
District- Kishanganj.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s : Mr. Amal Kumar Sinha

For the Respondent/s : Mr. Ram Bilash Roy Raman

CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL JUDGMENT

Date : 08-05-2019

Heard the parties.

2. This criminal revision petition has been filed for setting aside the judgment and order dated 18.09.2016 passed in Cr. Appeal No. 11 of 2006 by learned Additional District & Session Judge 1st -cum-Special Judge, Kishanganj dismissing the appeal of petitioner and affirming the judgment of conviction and order of sentence dated 28.02.2006 passed by learned Sub-Divisional Judicial Magistrate, Kishanganj in Trial No. 2182 of 2006 (G.R. No. 807 of 2005) arising out of Tedhagachh, (Fatehpur) P.S. Case No. 73 of 2005 by which learned trial court has convicted petitioner under Section 25(1-b) a and 26(i) of Arms Act and sentenced to undergo rigorous imprisonment for three years and fine of Rs. 500/- and further



convicted for offence under Section 26(i) of Arms Act and sentenced to undergo rigorous imprisonment for three years and fine of Rs. 500/- and in default to undergo simple imprisonment for one month.

3. Prosecution case is based upon a written complaint made by informant who was the Sub-Inspector of Police in S.S.B. and has stated that while he was on patrolling duty on India and Nepal Border and checking the vehicle at about 3.50 PM one Hero Honda Splendor motorcycle came from the side of Nepal who tried to flee away from the side but he was stopped and on search being made in presence of two independent witnesses, from the dicky of motorcycle one country made pistol and three cartridges of rifle were recovered which was seized in presence of independent witnesses and seizure list was prepared, a copy of which was given to the petitioner.

4. Petitioner was arrested and handed over to the local police station on the basis of written complaint made by informant FIR was instituted under Section 25(1-b) a and 26 (i) of the Arms Act and S.H.O. of the police station handed over the investigation of the case to Assistant Sub-Inspector who after investigation found the accusation to be true and submitted charge sheet against petitioner upon which cognizance was



taken by the learned Magistrate. Charges were framed to which petitioner pleaded not guilty and claimed to be tried.

5. Altogether 11 witnesses have been examined on behalf of prosecution, 12 documents have been marked as Exhibits and 2 materials have been marked as material exhibits.

6. P.W. 1 is informant Raja Ram Gupta, who is Sub-Inspector of Police in S.S.B., has stated in his deposition that on the day of occurrence i.e. 20.11.2005 at 3.50 P.M. he reached there along with other police personnel and stopped one person coming on a Hero Honda Splendor motorcycle and on search from the dicky of motorcycle a country made pistol and three cartridges were recovered which were wrapped in a cloth. Search was made in presence of two independent witnesses and seizure list was prepared at the place of occurrence. He has proved the seizure list which has been marked as Exhibit-1. On the seizure list signature of accused/petitioner was marked as Exhibit-1/1. The recovered cartridges were of 9 mm. He has proved the written complaint and his signature over it which has been marked as Exhibit-2. He has proved his signature on the production-cum- seizure list which has been marked as exhibit-3, he identified the accused and was also cross-



examined by the defence.

7. P.W. 2 is Sheo Chandra Singh who had tested the arms and ammunition on 20.12.2005. He has proved the country made pistol which has been marked as material exhibit-1 and three cartridges which has been marked as material exhibit-2, 2/1 and 2/2. On test the country made pistol and three cartridges were found to be effective and in working condition. The Inspection report has been proved by him which has been marked as exhibit-4, he has been cross-examined by the defence.

8. P.W. 3 Shambhoo Nath, P.W. 4 Chaman Lal and P.W 5 Parimal Haldhar are Head Constable and Constable in SSB and are seizure list witnesses and also identified the petitioner/accused and have supported the case of prosecution.

9. P.W. 6 Suraj Lal Singh and P.W. 7 Lakhan Lal Pandit are seizure list witnesses and have identified their signature on the seizure list which is marked as Exhibit-1/2 and exhibit 1/3, however they have denied of any recovery being made in their presence.

10. P.W.8 Dev Bratt Kumar has proved the sanction order which has been marked as Exhibit-5.

11. P.W. 9 and P.W. 10 are witnesses on production -cum-



seizure list witnesses prepared at the police station. which has been marked as exhibit-3/1 and 3/2.

12. P.W. 11 Raj Narayan Manjhi is I.O. who has proved the signature of Officer-in-Charge of police station which has been marked as exhibit-6 and has proved the forwarding letter and his signature and endorsement of Officer-in-charge which has been marked as exhibit 2/2. He has stated in his deposition that in course of investigation he has recorded the statement of witnesses and inspected the place of occurrence and got tested the material exhibit through Sergeant Major and has proved the written memo as exhibit 4/1 and has also proved his signature on seizure list as exhibit 3/3 and confessional statement of accused which has been marked as exhibit-7.

13. After investigation, he found the case to be true and submitted charge sheet. The trial court as well as appellate court after appreciation and re-appreciation of the evidences on record has held that charges against petitioner under Section 25(1-b) (a) and 26 (i) of Arms Act stands proved beyond all reasonable doubt and there is no material contradiction in the evidences adduced by the prosecution and there is nothing in their cross examination to disbelieve them and trial court convicted petitioner and sentenced him to undergo rigorous



imprisonment for three years and fine of Rs. 500/- separately against both the charges and in default to undergo further simple imprisonment of one month.

14. After hearing counsel for the petitioner and perusal the order passed by the trial court as well material available in L.C.R., this Court does not find any illegality, error or irregularity in the judgment of conviction passed by the Trial Court and upheld by the Appellate court.

15. However, the order of sentence is modified as to undergo rigorous imprisonment of 2 years under Section 25(i-b)a of Arms Act and to undergo rigorous imprisonment of 2 years under Section 26(i) of Arms Act. The criminal revision petition is dismissed with modification of order of sentence dated 28.02.2016.

16. Petitioner is on bail as such his bail bond is cancelled and he is directed to be taken in custody to serve remaining part of his sentence in jail.

(S. Kumar, J)

veena/-

AFR/NAFR	NAFR
CAV DATE	NA
Uploading Date	
Transmission Date	

