

HIGH COURT OF CHHATTISGARH, BILASPUR

CRR No. 584 of 2004

- Sanjay Kumar @ Brijesh Tiwari, S/o. Nayan Tiwari, Aged about 27 years, E/o. Village Samhai, PS Nawabganj, District Allahabad (UP) Present Address Jai Hind Chowk, Pandri, Raipur CG

---- Applicant

Versus

- State Of Chhattisgarh, Through Station House Officer, PS Pandaei (Mova) District Raipur (CG)

---- Respondent

For Applicant	: Shri Y.C.Sharma, Advocate
For Respondent/State	: Ms. Reena Singh, PL

Hon'ble Smt. Justice Rajani Dubey

Order On Board

30/09/2019

The present revision arises out of the impugned order and judgment dated 20.11.2004 passed by the Sessions Judge, Raipur in Cr. Appeal No. 209/2004 whereby the learned appellate Court below has confirmed the conviction and sentence of the accused/applicant as awarded by the learned Judicial Magistrate first Class, Raipur vide its judgment dated 30.07.2004 in Cr. Case No. 190/2001 for the offence under Section 25 of the Arms Act and sentenced him to undergo RI for one year with fine of Rs. 200/- plus default stipulation.

2. Facts of the case in brief are that on 11.05.2001, while on patrolling duty, at about 10.00 am, information was received by ASI, V.S.Thakur of Crime Branch Squad that the applicant is searching customer for sale of revolver and cartridges. The police seized the

revolver and cartridges from him and report was lodged against him under Sections 25/27 of the Arms Act. Investigation was done and charges were framed against the accused/applicant under Sections 25 and 27 of the Arms Act.

3. So as to prove the guilt of the accused/applicant, the prosecution has examined 05 witnesses. Statement of the accused/applicant was also recorded under Section 313 of the Cr.P.C. in which he denied the charges leveled against him and pleaded his innocence and false implication in the case.

4. After hearing the parties, vide impugned judgment and order dated 30.07.2004, learned Magistrate has convicted the accused/applicant for the offence under Section 25 of the Arms Act and has sentenced to undergo RI for one year with fine of Rs. 200/- with default stipulation. This order was appealed by the applicant and in the appeal, learned appellate Court has confirmed the conviction and sentence awarded to the applicant under Section 25 of the Arms Act. Hence, the present revision.

5. Heard counsel for the parties and perused the material on record including the impugned judgment.

6. Counsel for the applicant submits that he is not pressing the revision as far as it relates to the conviction part of the judgment and would confine his argument to the sentence part thereof only. According to the counsel for the applicant, the incident is said to have taken place in the year 2001 and the applicant has already remained

in jail for about one month and 28 days, looking to the over-all circumstances and the fact that the accused has remained behind the bars for considerable time, it will be just and proper if the sentence awarded by the trial court for offence under Section 25 of the Arms Act and affirmed by the appellate court is reduced to the period already undergone by him, since no useful purpose would be served by sending the applicant again to prison and prayed for leniency. To this, counsel for the State has no serious objection.

7. Now, having regard to the facts and circumstances of this case and that the occurrence having taken place in the year 2001, the applicant having suffered incarceration for 01 month and 28 days, this Court feels that while confirming the order of conviction, it would be appropriate to modify and reduce the sentence of imprisonment to the period already undergone by him.

Consequently, the revision is partly allowed. The conviction of the applicant passed by the trial Court and modified by the appellate Court under Section 25 of Arms Act is hereby modified and instead thereof, the applicant is sentenced to the period already undergone by him.

Sd/-
(Rajani Dubey)
Judge