

HIGH COURT OF CHHATTISGARH, BILASPUR**CRA No. 150 of 2011**

- Sahmat Ansari, S/o- Mohamed Sadique Ansari, Aged about- 19 years, R/o- Village- Madgari, P.S.- Kusmi, District- Surguja (C.G.)

---- Appellant**Versus**

- State of Chhattisgarh, through- P.S.- Kusmi, District- Surguja (C.G.)

---- Respondent

For Appellant : Shri Shakti Raj Sinha, Advocate.

For State/Respondent : Smt. Smita Jha, Panel Lawyer.

Hon'ble Shri Justice Ram Prasanna Sharma**Judgment on Board****10/12/2019**

1. This appeal is preferred against the judgment dated 3rd February, 2011 passed by 4th Additional Sessions Judge (F.T.C.), Ambikapur, District- Surguja (C.G.) in Sessions Case No. 231/2007 wherein the said Court convicted the appellant for commission of offence under Section 25(1b) of the Arms Act, 1959 and sentenced him to undergo R.I. for three years and fine of Rs. 500/- with default stipulation.
2. Charge-sheet under Section 392 of Indian Penal Code, 1860 and under Sections 25 and 27 of the Arms Act, 1959 was filed against the appellant and the co-accused on the allegation that on 17th March, 2006 at about 08:30 pm the appellant and other co-accused stopped the complainant Mritunjaya Singh (PW-9) and Smt. Bharti Singh (PW-11) while they were going towards village- Kusmi. The appellant and other co-accused were armed with gun and they have robbed the complainant and his sister. As the appellant was in possession of fire arms which is subsequently seized on the discovery statement of the appellant, the appellant

was charge-sheeted with co-accused and after completion of trial, appellant was convicted and sentenced as mentioned above.

3. Learned counsel for the appellant submits that evidence adduced by the prosecution is contradictory in nature and same is not sufficient to bring home guilt, therefore, finding of the trial Court is liable to be set aside.
4. On the other hand, learned counsel for the State submits that finding of the trial Court is based on proper marshaling of evidence which is not required to be quashed while invoking jurisdiction of appeal.
5. I have heard learned counsel for the parties and perused the record of the Court below wherein judgment has been passed.
6. To substantiate the charges, the prosecution examined as many as 12 witnesses. As per version of Assistant Sub-Inspector Pancham Prasad Pandey (PW-8), on discovery statement of the appellant, country-made revolver and kartoos were seized as per Ex.P/2. Version of this witness is unrebutted on all the points. The seized article was produced before the trial Court and it was identified by the said witness. Again as per version of Inspector Sudheer Kunur (PW-5) he examined the country-made revolver and kartoos seized in the crime in question and after examination he found that said country-made revolver was workable and it was fit for fire. Version of this witness is also unrebutted during cross examination.
7. Looking to the evidence adduced against the appellant, it is established that he was in possession of one firearm and kartoos without having license, therefore, the District Magistrate

sanctioned to prosecute him under Section 39 of the Arms Act, 1959 and trial Court recorded finding for illegal possession of firearm which is punishable under Section 25(1b) of the Act, 1959. After re-assessing the entire evidence, this Court has no reason to take a contrary view, therefore, conviction of the appellant for the said offence is hereby affirmed.

8. Heard on point of sentence.
9. Minimum sentence for the said offence in question is one year jail term. Case is pending since 2007. From the record it appears that the appellant has suffered one year and one month of jail term. In view of this Court no useful purpose would be served if the appellant is again sent to jail, therefore, sentence awarded by the trial Court is reduced to the period already undergone by him.
10. Accordingly, the appeal is partly allowed.

Sd/-
(Ram Prasanna Sharma)
Judge