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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-S-1802-SB-2003

Date of Decision : March 13, 2019

Amandip Singh alias Assa Singh Appellant

Versus

The State of Punjab ... Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Argued by Mr. Arnav Sood, Advocate,
for the appellant.

Mr. APS Gill, DAG, Punjab,
for respondent-State .

SHEKHER DHAWAN, J.

Present appeal is directed against the judgment of conviction and order of sentence dated 12.09.2003, passed by learned Additional Sessions Judge, Fast Track Court, Ludhiana whereby appellant- Amandip Singh alias Assa Singh was convicted and sentenced as under:-

Under Section	Sentence	In default
25 (I-A) of the Arms Act, (for short “ the Act ”)	to undergo Rigorous Imprisonment for a period of 5 years and to pay a fine of Rs.1000/-	to further undergo R.I. for a period of 1 year.

2. Facts relevant for the purpose of decision of the appeal; that during investigation of FIR No. 90 dated 15.4.1999 under Sections 302/307 IPC, the appellant made a disclosure statement on 23.04.1999 that he had got concealed one pistol/mouser under the fodder heap in his residential house, which he could get discovered. The statement of the accused-appellant was recorded and thereafter, the policy party took him at the given place where the accused-appellant got discovered pistol/mouser

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from the given place. The same was sealed with the seal 'BS' and was taken into custody vide recovery Memo Ex. PJ/2. The mouser (Ex. PX/1) was sent for its test to Forensic Science Laboratory, Punjab, Chandigarh and as per its report, the same was fit for fire. Sanction of the District Magistrate for trial of the accused was obtained. After completion of investigation proceedings, challan was presented in the Court for trial.

3. During trial, learned Court below completed various proceedings of trial including framing of charge against the accused, recording of evidence of the witnesses and examination of accused under Section 313 Cr.P.C. After considering the prosecution and the defence evidence on record, learned trial Judge held the accused-appellant guilty and convicted him for commission of offence punishable under Section 25 of the Act and sentenced him vide judgment and order dated 12.09.2003 as mentioned in para No.1 above.

4. Aggrieved of passing of judgment of conviction and order of sentence, the appellant is before this Court by way of present appeal.

5. At the very outset, learned counsel representing the appellant contended that he does not challenge the judgment of conviction and a lenient view on the point of sentence be taken. As per the custody certificate dated 29.11.2018, the appellant has already undergone total sentence of 04 years 05 months and 19 days (including remissions) against the awarded sentence of 5 years.

6. Learned State counsel contended that the appellant does not deserve any concession on the ground that the appellant is involved in number of similar cases and the present appeal be dismissed.

7. Having considered the submissions made by learned counsel

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for the parties and appraisal of record, this Court is of the considered view that learned trial Judge has already appreciated the evidence in its perspective manner. The prosecution has successfully proved on record the recovery of pistol/mouser from the accused-appellant and all the witnesses have supported the prosecution version. Learned trial Judge has rightly held that the testimonies of official witnesses cannot be discarded merely on the ground of their official status and there is nothing on record to show that the prosecution witnesses had any enmity to falsely implicate the accused. As such, no interference is called for in the findings recorded by learned trial Judge and the present appeal qua judgment of conviction passed by the Court below, stands dismissed.

8. As regard to quantum of sentence, this Court is certainly inclined to take a lenient view in this case. Considering the fact that the appellant has already undergone total sentence of 04 years 05 months and 19 days (including remissions) against the awarded sentence of 5 years as per the custody certificate dated 29.11.2018, taking a lenient view on the point of sentence, the order of sentence is modified to the extent that the sentence of appellant – Amandip Singh alias Assa Singh in this case shall be reduced to the period, which he has already spent while remaining in custody during the period of trial and present appeal.

9. Resultantly, the present appeal stands disposed of in the above terms.

(SHEKHER DHAWAN)
JUDGE

March 13, 2019

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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes