

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

CRR-2417-2009
Date of Decision: 13.09.2019

Mukhtiar Singh

.....Petitioner

Versus

State of Punjab

.....Respondent

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present: Ms. Ishma Randhawa, Advocate, for the petitioner.

Mr. Sarabjit Singh Cheema, AAG, Punjab.

Harnaresh Singh Gill, J.

The petitioner along with one Balbir Singh was tried for committing the offence punishable under Section 25 of the Arms Act. Vide judgment and order dated 22.03.2007, learned Sub Divisional Judicial Magistrate, Baba Bakala, held the petitioner guilty for the said offence and sentenced him to undergo one year RI and to pay a fine of Rs.500/- and, in default of payment of fine, to further undergo RI for one month.

Aggrieved there-against, the petitioner filed an appeal before the learned Sessions Judge, Amritsar. Vide judgment dated 4.8.2009, the learned Additional Sessions Judge, Amritsar, dismissed the appeal filed by the petitioner, thereby affirming the judgment and order passed by the learned trial Magistrate. Still aggrieved, the petitioner has preferred the present revision petition.

As per the prosecution case, on 5.1.2001 at about 8.30 p.m., complainant-Gurcharan Singh along with his wife Surinder Rani and daughter, namely, Jaspreet Kaur, was present in his house. At that time, upon having heard knocking on the door, the complainant opened the gate. Two persons with yellow patkas on their head and cladded in sheets entered the complainant's house. Out of them, one was clean shaven, whereas the other was having beard. One of them pointed the rifle without butt on the complainant and directed his family members to get together in one room. When the complainant while holding the refile towards the roof of the house had raised an alarm, both the accused tried to run away after throwing the rifle on the spot. The person holding the rifle was identified as Mukhtiar Singh whereas the second accused was Balbir Singh. When the people of the vicinity gathered, both the accused fled from the spot leaving behind the rifle without butt and one silver colour Bajaj Chetak Scooter bearing Registration No. PB04/7757. ASI Surinder Singh removed the Magazine of Rifle 303 bearing No. 73786/A and unloaded the same. From the barrel of the rifle, one cartridge 303 and the Magazine containing 4 cartridges of 303 were taken out. ASI prepared the sketch of the rifle without Butt and Magazine. Besides, Scooter was also taken into possession.

After completion of investigation, challan was presented in the Court.

Charge under Section 25 of the Arms Act, was framed against the petitioner. He denied the charge and claimed trial.

In order to prove its case, the prosecution had examined 5 witnesses, including complainant Gurcharan Singh, as PW1.

Statement of accused under Section 313 Cr.P.C was recorded, wherein while denying the allegations, the accused-petitioner pleaded innocence. In his defence the accused-petitioner had examined two witnesses.

On the basis of the evidence led, the learned trial Court, has convicted and sentenced the accused-petitioner as noticed above. It was found that one rifle .303 without Butt, was recovered along with Magazine containing 4 live cartridges and one cartridge in the barrel from the accused-petitioner. The defence plea that the rifle was not in a working condition, did also not find favour with the learned trial Court. Thus, it was found that the accused-petitioner had been in illegal possession of .303 rifle without butt alongwith four live cartridges. The finding recorded by the trial Court, was upheld by the learned Appellate Court.

Learned counsel appearing for the petitioner contends that the petitioner was falsely implicated in the case in hand that both the Courts below have totally ignored the defence set up by the accused-petitioner. Both the Courts totally misread the defence set up by the petitioner that the complainant was to return some amount to the petitioner and

when the petitioner had demanded the said amount, he was falsely implicated in the case.

However, I do not find any merit in the arguments raised by the counsel for the petitioner. This Court in its revisionary jurisdiction is not re-appreciate the evidence, especially when, both the Courts have recorded their concurrent findings of guilt on the part of the accused-petitioner. It could not be shown that any evidence has been misread or misinterpreted. Once the factum of accused-petitioner having forcibly entered the house of the complainant along with a rifle and pointing the said rifle towards complainant stood proved on record, there remained nothing to dispute the finding of guilt recorded by the trial Court and upheld by the learned appellate Court. Thus, in my opinion, the findings recorded by the Courts below do not require any interference.

Faced with such a situation, learned counsel appearing for the petitioner prays that the sentence imposed upon the petitioner may be reduced to the period already undergone by him.

It may be noticed that FIR of this case and the connected case out of which CRR-2420-2009 has arisen, is one and the same. Whereas in the said case, the petitioner was tried and ultimately convicted and sentenced for the offence under Section 392 read 511 IPC, in the instant case, the petitioner was tried, convicted and sentence for the offence under Section 25 of the Arms Act. The FIR had been registered on 6.1.2001. The petitioner has been facing the agony of trial for the last more

than 18 years. Thus, taking into consideration the already undergone period by the accused-petitioner in the connected case (which otherwise is/was to run concurrently), no useful purpose would be served by sending the petitioner behind the bars once again to undergo the remaining period of sentence. Instead, ends of justice would be suitably met, if the substantive sentence imposed upon the petitioner is reduced to the period already undergone by him.

In view of the above, while maintaining the conviction of the petitioner under 25 of the Arms Act, the sentence imposed upon the petitioner is reduced to the period already undergone, but subject to payment of fine of Rs.5000/- over and above the amount of fine, already imposed by the learned trial Court. The said amount shall be deposited by the petitioner before the trial Court within a period of two months from today.

Revision Petition is disposed of in the above terms.

(HARNARESH SINGH GILL)
JUDGE

13.09.2019
ds

Whether Speaking/ Reasoned:
Whether Reportable:

Yes/ No
Yes/ No