

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR No.411 of 2010

DATE OF DECISION: APRIL 12, 2019

MAHENDER SINGH

...PETITIONER

VERSUS

STATE OF HARYANA

...RESPONDENT

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ.

PRESENT: MR. PAWAN KUMAR HOODA, ADVOCATE
FOR THE PETITIONER.

MR. PARVEEN K. AGGARWAL, DAG, HARYANA.

MANOJ BAJAJ, J.

The petitioner has preferred this revision petition challenging the judgement dated 6.2.2010 passed by the Addl. Sessions Judge, Panipat whereby the judgement of conviction dated 16.2.2009 passed by the trial Court against the petitioner under Section 25 of the Arms Act and sentencing him to undergo imprisonment for 1 year and to pay a fine of ₹1000/- and in default of payment of fine, to undergo a further period of 1 month, vide order of sentence dated 17.2.2009, was maintained.

The petitioner was prosecuted in case FIR No.92 dated 24.6.2007 under Section 286, 506 IPC and Section 25/54/59 of Arms Act, registered at Police Station Israna.

The brief facts leading to the prosecution are that on a statement made by Sandeep on 24.7.2007, the aforesaid FIR was registered. It was stated by Sandeep that he alongwith his friend Kuldeep used to go Baba Gym Club, Gohana Road, Rohtak where petitioner Mahender Singh

was working as Coach. A settlement was arrived at in between complainant Sandeep and the petitioner that the petitioner would provide the complainant 900 grams of Protein for his health and in return the complaint would pay ₹6000/- for the same. As the Protein powder did not yield desired results, the complainant refused to pay ₹6000/- to the petitioner. Thereafter, the petitioner visited the house of the complainant and the mother of the complainant paid ₹5000/- to the petitioner. The petitioner again demanded ₹2000/- including rent of the Gym Club. Thereafter, the petitioner again visited the house of the complainant and started abusing him for not paying the balance amount and on this on 22.6.2007, he paid the remaining amount of ₹2000/- to the petitioner. The petitioner again demanded ₹1000/-, but he refused to pay the same. Infuriated, the petitioner alongwith his two companions, came in the street of the petitioner on the intervening night of 23/24.6.2007 at about 12.15 a.m. on a motor cycle and starting abusing him. On being snubbed, the petitioner fired a shot in the air and upon hearing the same, the neighbourers woke up and the petitioner ran away from the spot after issuing threat of dire consequences. The whole occurrence was allegedly witnessed by Hawa Singh son of Kali Ram and Maha Singh son of Bhana.

On the basis of the aforesaid statement, the present FIR was registered and investigation was carried on. Statements of witnesses were recorded, site plan was prepared and empty from the spot was recovered and was sent to FSL for examination. The accused was arrested and on basis of his disclosure statement, country made pistol was recovered. After completion of the investigation, a final report was submitted before the

competent Court. After commencement of the trial, the prosecution examined as many as 8 witnesses.

Statement of the accused was also recorded under Section 313 Cr.P.C. The accused pleaded false implication and claimed trial. No witness was examined in defence.

The complainant as well as the private witnesses turned hostile and did not support the case of the prosecution.

The learned trial Court after examining the evidence on record and relying on the testimony of official witnesses held the petitioner guilty for the offence punishable under Section 25 of the Arms Act and sentenced him as noticed above.

Learned counsel appearing on behalf of the petitioner has contended that he does not press his challenge to the conviction part in the impugned judgement and restricts his prayer only to reduction of sentence.

Learned counsel for the petitioner contended that the occurrence in this case had taken place on 24.7.2007, the complainant party had also not supported the case of the prosecution and since the petitioner has already suffered the agony of protracted trial and appeal for more than 11 years and the fact that the petitioner is not a habitual offender, therefore, some leniency may be shown towards the petitioner and he may be sentenced to the period already undergone by him. In support of his contentions, learned counsel has relied upon a judgement passed by Hon'ble Supreme Court in Nasru vs. State of U.P., 1994 (Sup2) SCC 493 wherein in a similar offence, the sentence of 1 year R.I. awarded to the accused was reduced to the period already undergone by him. Learned counsel has also

placed reliance on judgements passed by this Court in *Chhotu Ram vs. State of Haryana, 2013(4) RCR (Criminal) 630* and *Jagdeep Singh @ Neetu vs. State of Punjab, 2013(16) RCR (Criminal) 42*, wherein in the said criminal revisions against conviction in a similar offence, this Court ordered to release the respective petitioners on probation.

Learned State counsel, on the other hand, opposed the prayer made the learned counsel for the petitioner.

Considering the aforesaid contentions and the judgements relied upon by the learned counsel for the petitioner and the fact that the petitioner has already spent a period of more than a decade in the corridors of the Courts, this Court is of the opinion that no useful purpose would be served by sending the petitioner in custody for serving the remaining portion of his sentence and ends of justice would be met, if the sentence of the petitioner is modified and reduced to the one already undergone by him.

In view of the above, while upholding the conviction of the petitioner under Section 25 of the Arms Act, the sentence of the petitioner is reduced to the one already undergone by him. However, the fine and default clause shall remain intact.

The petition stands disposed off.

April 12, 2019
Gulati

(MANOJ BAJAJ)
JUDGE

Whether Reportable : Yes

Whether Speaking/Reasoned : Yes