

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH.**

**Crl. Revision No. 3746 of 2018
Date of Decision: July 09, 2019**

Manish Kumar

.....PETITIONER

VERSUS

State of Haryana

.....RESPONDENT

CORAM:- HON'BLE MR. JUSTICE SURINDER GUPTA

Present: Mr. P.S.Ahluwalia, Advocate
for the petitioner.

Mr. Raj Kumar Makkar, Sr. D.A.G., Haryana.

Mr. Dinesh Arora, Advocate
for the complainant.

SURINDER GUPTA, J.(Oral)

Heard.

Learned counsel for the petitioner submits that as per case of the prosecution a .315 bore pistol (*Desi Katta*) loaded with one live cartridge along with another live cartridge was recovered from the possession of petitioner Manish Kumar. The police registered a case bearing FIR No.251 dated 23.12.2017, in which challan was presented and the petitioner was charge-sheeted for the offence punishable under Sections 25 and 29 of Arms Act.

The petitioner was also arrested in another case bearing FIR No.204 dated 23.10.2017 registered at Police Station Chhappar, District Yamunanagar for the offence punishable under Sections 148, 149, 323, 324,

325, 326, 307, 379-B, 473, 506, 120-B IPC and 25 of Arms Act. After presentation of challan, he was charge-sheeted and for the weapon recovered from the petitioner in case bearing FIR No.251 dated 23.12.2017 charge has again been framed against the petitioner in case bearing FIR No.204 dated 23.10.2017. For one recovery two charges cannot be framed against the petitioner, as such, the charge framed in FIR No.204 dated 23.10.2017 for the offence punishable under Section 25 of Arms Act be set aside. In the aforesaid case, the police has alleged recovery of iron rod from the petitioner and not a fire arm.

Learned State counsel endorses the submissions of learned counsel for the petitioner to the effect that recovery of iron rod was effected from the petitioner in case bearing FIR No.204 dated 23.10.2017. He fairly admits that the trial of the petitioner for recovery of pistol, an illegal weapon, is being separately conducted in FIR No.251 dated 23.12.2017.

The petitioner is facing separate trial for recovery of pistol from his possession on 23.12.2017 in case bearing FIR No.251 dated 23.10.2017 registered at Police Station, Yamuna Nagar. He has been charge-sheeted for the same recovery in case bearing FIR No.204 dated 23.10.2017. It is well settled principle of law that a person cannot be subjected to double jeopardy.

In view of the above, this petition is allowed. The framing of charge in case bearing FIR No. 204 dated 23.10.2017 against the petitioner for the offence punishable under Section 25 of Arms Act for recovery of . 315 bore pistol on 23.12.2017 with live cartridges is set aside. The trial Court in case find any connection or reason for joint trial of cases arising

out of FIR No.251 dated 23.12.2017 and FIR No.204 dated 23.10.2017 shall be at liberty to pass an appropriate order calling for the file of case (FIR No. 251 dated 23.12.2017) to try the same with the case bearing FIR No.204 dated 23.10.2017.

July 09, 2019
Jyoti-II

(SURINDER GUPTA)
JUDGE

Whether speaking/reasoned: Yes/No
Whether Reportable: Yes/No