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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRR-3770-2018 (O&M)
Date of Decision : May 15, 2019

Aasim alias Dhruv Petitioner

Versus

State of Haryana ... Respondent

CORAM : HON'BLE MR. JUSTICE SHEKHER DHAWAN.

Present : Mr. Rajat Mor, Advocate
for the petitioner.

Mr. D.K. Mittal, Deputy Advocate General,
Haryana, for the respondent-State .

SHEKHER DHAWAN, J.

Present revision petition is directed against the judgment of conviction dated 27.04.2017 and order of sentence dated 28.04.2017 passed by learned Judicial Magistrate Ist Class, Jhajjar vide which the petitioner was convicted and sentenced as under:-

Under Section	Sentence	In default
U/s 25 of the Arms Act, 1959	to undergo Rigorous Imprisonment for a period of One year and to pay a fine of Rs. 500/-.	To undergo further Rigorous Imprisonment for a period of one month.

2. The appeal preferred by the present petitioner against the said judgment of conviction and order of sentence was dismissed by learned Additional Sessions Judge, Jhajjar vide judgment dated 11.10.2018.

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3. Facts relevant for the purpose of decision of the present revision petition; that on 31.05.2014, the petitioner herein was apprehended on suspicion by the police party and one country-made pistol was recovered from the right pocket of his slacks and one live cartridge was found in the pistol and the same were taken into police custody after preparing sketch and sealing on the spot. Report of Armorer was received. Accused-petitioner was arrested. After completion of investigation proceedings, challan was presented before the trial Court.

4. During trial, learned trial Court completed various proceedings of trial including framing of charge, recording statements of prosecution witnesses and examination of the accused (petitioner herein) under Section 313 Cr.P.C. After considering the material and evidence available on record, learned trial Court held the petitioner guilty and convicted and sentenced him as detailed in para No.1 above.

5. The appeal preferred by the present petitioner against the said judgment of conviction and order of sentence was dismissed by learned first appellate Court vide judgment dated 11.10.2018.

6. Learned counsel for the petitioner mainly contended that the prosecution case is solely based on the testimony of police officials. There was ample time and opportunity with the police party to join independent witness, but no independent witness was joined.

7. Learned counsel for the petitioner further contended that the investigation was carried on by the same person, who is complainant in this case and as such, the petitioner is entitled to acquittal in this case. On this point, reliance was placed upon judgment from Hon`ble Apex Court in

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Megha Singh Vs. State of Haryana, 1997 (2) R.C.R. (Criminal) 3.

8. While arguing on this point, learned State counsel contended that prosecution case is based upon the testimony of five prosecution witnesses who have well stood by the test of cross-examination. There is no ground to disbelieve the testimony of these witnesses and both the Courts below have already scanned the evidence led by the parties and recorded the judgment of conviction and order of sentence and the appeal was dismissed by learned Additional Sessions Judge, Jhajjar.

9. Learned State counsel further contended that in this case, the complainant is HC Sachin whereas further investigation was conducted by HC Sunil Kumar and the facts of **Megha Singh's case (supra)** are certainly distinguishable and the said judgment is of no help to the petitioner.

10. Having considered the submissions made by learned counsel for the parties and appraisal of record, this Court is of the considered view that both the allegations against the petitioner are that he was found to be in possession of one country-made pistol which was in working condition and one live cartridge which were taken into police custody. At trial stage, prosecution examined PW-1 HC Sunil Kumar, Investigating Officer, PW-2, HC Sachin, complainant, recovery witness and part Investigating Officer, besides PW-3 ASI Som Pal, PW-4 Wazir Singh, Ahlmad of District Magistrate, Jhajjar and PW-5, HC Vijay. They have well stood by the test of cross-examination. Against that, the defence version is plea of denial only. Law on the point is settled that police officials are as good as witnesses from the general public if they stand by the test of cross-

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examination. In the present case, learned counsel for the petitioner could not point out even a single contradiction on the basis of which, their testimony could be discarded.

11. As regard to complainant being the Investigating Officer, the judgment cited by learned counsel for the petitioner is not applicable to the facts of the present case, because here the complainant is recovery witness and the investigation was partially done by HC Sunil.

12. As regard to the order of sentence, the petitioner has already been awarded minimum sentence provided under the Statute and no interference is warranted to the order of sentence passed by the Court below.

13. In view of the above, this Court is of the considered view that both the Courts below have already appreciated the evidence in its perspective manner and law on the point and the present petition is without any merit and the same stands dismissed.

(SHEKHER DHAWAN)
JUDGE

May 15, 2019
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Whether speaking/reasoned?	:	Yes
Whether reportable?	:	Yes