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IN THE HIGH COURT OF DELHI AT NEW DELHI

Decided on:- 24th May, 2019

+ Crl. Appeal no. 751/2002

PARVEEN CHAUHAN

..... Appellant

Through: Mr. Jayant K. Sud, Senior Advocate
with Mr. Honey Khanna, &
Mr. Shailesh Poddar, Advocates with
appellant in person.

versus

STATE

..... Respondent

Through: Mr. Kewal Singh Ahuja, APP for the
State with ASI Prem Ram Arya, PS
Hari Hagar.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

JUDGMENT (ORAL)

1. On the basis of reports (charge sheets) under section 173 of the Code of Criminal Procedure, 1973 (Cr.P.C.) upon conclusion of investigation into two different cases – FIR No.958/1996 and FIR No.967/1996, both of Police Station Hari Nagar – the appellant along with one Kishan @ Pammi were brought to trial in the court of Additional Sessions Judge, the two cases (sessions case (nos.199/1997 and 09/2000) having been clubbed for such purposes. The trial was held primarily on the charge under section 307/34 of the Indian Penal Code, 1860 (IPC) against the appellant and co-accused Kishan @ Pammi, this being subject matter of the first said FIR, the trial also

involving the charge under section 25 of the Arms Act, 1959 against the appellant, this arising out of the other FIR. The trial concluded in judgment dated 24.08.2002 whereby the co-accused Kishan Singh was held guilty for offence under section 307 IPC, such charge apparently not having been proved against the appellant. The appellant, however, was found guilty and convicted on the charge under section 25 of the Arms Act, 1959, the gravamen thereof being that he had been found having in his possession a country made firearm (*katta*) with one live ammunition. The trial court awarded punishment to both the convicts, the sentence awarded for the offence under section 25 Arms Act against the appellant being rigorous imprisonment for three years with fine of Rs.2,500/-, in default further rigorous imprisonment for one month, the substantive sentence awarded being the maximum punishment provided for the offence, as per penal clause contained in Section 25 (1B) of the Arms Act, 1959.

2. The acquittal on the charge for offence under section 307 IPC was not challenged as no appeal was brought. The result of the case to that extent has attained finality.

3. The judgment of conviction and order on sentence for the offence under section 25 Arms Act were challenged by this appeal presented in October, 2002. The sentence was suspended and the appellant released on bail pending hearing on the appeal by order dated 10.03.2003. The appeal was admitted and put in the category of 'regulars'. It has come up for hearing more than sixteen years after it had been presented.

4. At the hearing, the learned senior counsel for the appellant submitted that he does not challenge the finding of the trial court convicting him on the charge under section 25 Arms Act, his prayer being for mercy in the matter of punishment. He submitted that the appellant has suffered long and protracted proceedings, he having reformed himself over the period as a useful citizen. It was submitted that the appellant is a graduate and has been earning his livelihood as a teacher in a private public school, he being settled in life with family which includes small children who depend on him for sustenance and support. It was pointed out that the appellant has had clean antecedents, he not having been involved in any crime in the past nor has there been involvement in any criminal activity after the present case.

5. The learned Additional Public Prosecutor, on being asked, confirmed that he has verified from the police agency and that there is no crime record vis-à-vis the appellant either anterior to or after the involvement in the present case. It is noted from the nominal roll dated 15.02.2019 submitted by the Superintendent Jail No.2, Tihar that the appellant had undergone incarceration for over eight months including remission during the period of investigation, trial and thereafter.

6. In the above facts and circumstances, particularly the clean antecedents and non-involvement in any other crime on the part of the appellant besides the long and protracted proceedings suffered for almost twenty-three years, this court finds this to be a case covered by

proviso to Section 25 (1B) of Arms Act, 1959, meriting reduction of the rigor of punishment from the minimum imprisonment of one year that is ordinarily provided for. Thus, the sentence is reduced to the period of detention already undergone.

7. The bail bonds and surety bond stand discharged.
8. The appeal stands disposed of in above terms.

MAY 24, 2019
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R.K.GAUBA, J.



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