

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 98 of 2001

Judgment reserved on 06.11.2019

Judgment delivered on 12. 02.2020

Urbanus S/o. Elbis Ekka, Aged 32 years, R/o. Chainpur, Police Station Mahuadand, Jharkhand.

---- Appellant

Versus

State of Chhattisgarh, through Thana (Arakshi Kenda) Kusmi, Ambikapur, District Surguja (CG)

---- Respondent

For Appellant : Mr. Harish Khunitiya, Advocate.
For Respondent : Mr. Ishan Verma, Panel Lawyer

Hon'ble Smt. Justice Vimla Singh Kapoor

CAV Judgment

Initially the charge was framed against the accused/appellant under Sections 395, 397 IPC and 25 (1) (1B) (a) and 27 of the Arms Act, 1959 as he along with others is alleged to have robbed Ramsundar Yadav (PW-5) of his valuables such as the gold, silver ornaments including cash. However, after conducting a full-fledged trial by examining number of witnesses, learned Court below by its judgment dated 20.12.2000 passed in Sessions Trial No.134/1991 acquitted the accused of the charges under Sections 395, 397 IPC and 27 of the Arms Act, but found him guilty under Section 25 (1)

(1B) (a) of the Arms Act. Learned Court below also took a lenient view considering the mitigating factors involved in the case and reduced the sentence imposed on him to the period already undergone. In other words, this appeal appears to relate only to the conviction of the accused under Section 25 (1) (1B) (a) of the Arms Act alone.

2. Counsel for the accused/appellant submits that though PW-7 and PW-8 are there to support the seizure of a country made revolver from the accused which was in a working condition, yet none of them has stated that the said weapon was used by the accused in any manner whatsoever and therefore, the conviction of the accused/appellant under Section 25 (1) (1B) (a) of the Arms Act is not sustainable in the eye of law.

3. State counsel however supports the judgment impugned and submits that as the accused was found in possession of firearm which was in working condition without there being any licence therefor, the judgment impugned convicting the accused under Section 25 (1) (1B) (a) of the Arms Act is just and proper and does not call for any interference in this appeal.

4. Since the accused/appellant had already been acquitted of the charges under the Indian Penal Code as also under Section 27 of the Arms Act, this Court does not wish to delve thereon at this stage again. As regards his conviction under Section 25 (1) (1B) (a) of the Arms Act, PW-7 and PW-8 have categorically stated in their

deposition that the accused was found in illegal possession of a country made revolver that too in working condition, without holding any licence etc. to possess the same, it amounts to be in violation of Section 3 of the Arms Act. Seizure of the said firearm was made from the house of the accused/appellant himself under Ex.P-5 based on his memorandum (Ex.P-4). The argument of the counsel for the appellant that the prosecution has not proved about the said firearm being used by the accused is not convincing at all because for conviction under Section 25 (1) (1B) (a) of the Arms Act, mere possession of the firearm in contravention of Section 3 of the Arms Act is well enough. PW-8 has even clarified that a country made revolver was seized from the accused which was possessed by him without any licence to do so. Thus the Court below has not committed any legal error while convicting the accused/appellant under Section 25 (1) (1B) (a) of the Arms Act and therefore, his conviction is hereby maintained.

5. Appeal thus being devoid of any substance is liable to be and is hereby dismissed.

Sd/-

(Vimla Singh Kapoor)
JUDGE