

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

CRA-S-290-SB of 2004

Reserved on : 08.01.2020

Date of decision : 27.01.2020

Paramjit Singh and another

.... Appellants

Versus

State of Punjab

..... Respondent

CORAM :- HON'BLE MR. JUSTICE RAJIV SHARMA

HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr. Mr. R.S. Cheema, Senior Advocate, with
Mr. Vijay Kumar Goyal, Advocate,
for the appellants.

Mr. H.S. Grewal, Addl. A.G., Punjab.

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RAJIV SHARMA, J.

1. This appeal is instituted against the judgment and order dated 13.01.2004, rendered by learned Additional Sessions Judge, Sangrur, in Sessions Case No. 30 dated 07.11.2001.

2. Appellant Paramjit Singh was charged with and tried for the offence punishable under Section 25 of the Arms Act and appellant Harbans Singh was charged with and tried for the offence punishable under Section 30 of the Arms Act. Appellant Paramjit Singh was convicted and sentenced to undergo rigorous imprisonment for three years and to pay fine of ₹

5,000/-, and in default of payment of fine to further undergo rigorous imprisonment for six months, under Section 25 of the Arms Act. Appellant Harbans Singh was convicted and sentenced to undergo rigorous imprisonment for six months and to pay fine of ₹ 2,000/-, and in default of payment of fine to further undergo rigorous imprisonment for two months, under Section 30 of the Arms Act.

3. The case of the prosecution, in a nutshell, is that on 24.07.2001, during interrogation of accused Paramjit Singh in a case under Section 302 IPC, registered vide FIR No. 95 of 2001, Police Station Lehra, accused Paramjit Singh, while in custody in that case, made a disclosure statement before Inspector Jaswinder Singh to the effect that he had kept concealed one .12 bore DBBL gun along with three empties. He could get the same recovered. The same were got recovered by him. Recovery memo was prepared. According to the record of Addl. District Magistrate, Patiala, the recovered gun was a licensed gun of Harbans Singh. Harbans Singh had allowed his son Paramjit Singh to use it unlawfully. The investigation was completed and challan was put up after completing all the codal formalities.

4. The prosecution examined a number of witnesses in support of its case. The accused were also examined under Section 313 Cr.P.C. They denied the case of the prosecution.

5. The appellants were convicted and sentenced, as noticed herein-above. Hence, this appeal.

6. Learned counsel appearing on behalf of the appellants has vehemently argued that the prosecution has failed to prove its case. Learned counsel appearing for the State has supported the judgment of conviction

and order of sentence passed by the learned trial court.

7. We have heard learned counsel for the parties and gone through the judgment and record very carefully.

8. PW.1 Bimla Devi, Arms Clerk, produced the sanction order Ex.PA. She identified the signatures of Shri G.K. Singh, Additional Deputy Commissioner, Sangrur.

9. PW.2 Sukhvir Singh, Arms Licence Clerk, deposed that the arms licence Ex.PB was issued from his office. It was valid upto 26.04.2004. He identified the signatures of Shri Gagandip Singh, Additional District Magistrate, Patiala.

10. PW.4 ASI Surjit Singh deposed that he was posted at Police Station Lehra on 24.07.2001. Inspector Jaswinder Singh took out accused Paramjit Singh from the lock up. Accused Paramjit Singh made a disclosure statement to the effect that he had kept concealed one .12 bore DBBL gun, belonging to his father, along with three empty cartridges of the same bore in a cloth underground in the motor Kotha of Tibe Wala Khet. The statement is Ex.PD. Accused Paramjit Singh led the police party to the spot and got recovered one .12 bore DBBL gun bearing No. 46374 made in Belgium along with three empty cartridges. These were taken into possession. The recovery memo is Ex.PE. The accused also got recovered licence in the name of his father Harbans Singh son of Gurnam Singh. In his cross-examination, he deposed that the place of occurrence was at a distance of about 7-8 KMs from Police Station Lehra. It was at a distance of about 20 KMs from Sunam. Harbans Singh accused was arrested after the arrest of Paramjit Singh.

11. PW.5 Inspector Jaswinder Singh deposed that he was posted as SHO, Police Station Lehra, on 24.07.2001. He was investigating the case FIR No. 93 dated 18.07.2001 registered under Section 302 IPC. He was present in Police Station. Accused Paramjit Singh made a disclosure statement vide Ex.PD to the effect that he had kept concealed one .12 bore DBBL gun along with three empty cartridges. These were got recovered at the instance of Paramjit Singh. The recovery memo was prepared along with the site plan. The case property was deposited in the safe custody of MHC. Section 30 of the Arms Act was added later on and accused Harbans Singh was formally arrested. The challan was put up after completing all the codal formalities.

12. It has come on record that a .12 bore gun bearing No. 46374 was used by Paramjit Singh in case FIR No. 93 dated 18.07.2001 under Section 302 IPC. It was a licensed gun. The licence was in the name of Harbans Singh. The recovery was effected at the instance of disclosure statement made by Paramjit Singh vide Ex.PD. Recovery of the gun was made on 24.07.2001. The appellants were permitted to be prosecuted vide sanction Ex.PA. No evidence has been led by the prosecution qua appellant Harbans Singh. The gun has been used by his son Paramjit Singh.

13. Accordingly, the prosecution has proved its case only against appellant Paramjit Singh. The trial court has rightly convicted and sentenced him. However, the prosecution has failed to prove its case against appellant Harbans Singh. The impugned judgment and order dated 13.01.2004 qua Paramjit Singh are upheld. However, the impugned judgment and order qua Harbans Singh are set aside and he is acquitted of the charge framed against

him. The appeal qua Paramjit Singh stands dismissed and appeal qua Harbans Singh is allowed. The appellants are on bail. Bail bond and surety bond of Paramjit Singh are cancelled. He is directed to surrender before the concerned Chief Judicial Magistrate forthwith to undergo remaining part of his sentence. The bail bond and surety bond of Harbans Singh are discharged.

(**RAJIV SHARMA**)
JUDGE

January 27, 2020
ndj

(**HARINDER SINGH SIDHU**)
JUDGE

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