

CRA-S-2946-SB-2014

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

Sr. No.214

CRA-S-2946-SB-2014

Date of decision : 9.12.2022

Brij Mohan

.....Appellant(s)

VERSUS

State of Haryana

..... Respondent(s)

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

Present: Mr.JS Mehendiratta, Legal Aid Counsel
for the appellant

Ms.Aditi Girdhar, AAG, Haryana

AMAN CHAUDHARY, J.

The present appeal has been filed against the order dated 17.1.2012 passed by learned Additional Sessions Judge, Sirsa vide which the application of the appellant for return of DBBL-12-Bore Gun make Indian alongwith gun licence was dismissed.

An FIR No.613 dated 4.9.1997, under Sections 307, 323, 506, 427, 34 of IPC and Section 25 of the Arms Act, was registered against the appellant at Police Station Rania. A licenced gun of the appellant was also taken into possession. In the said FIR, the appellant was convicted and sentenced by the trial Court vide judgment and order dated 3.9.2001. Appeal filed against the same, was also disposed of while releasing the appellant to the period already undergone vide order dated 16.9.2010.

Reply on behalf of the State has been filed.

Learned counsel for the appellant submits that he has no

objection , if the present appeal may be disposed of in view of the reply filed by the State.

Learned Additional Sessions Judge, Sirsa, vide order dated 17.1.2012, while dismissing the application of the appellant has observed as under:

Heard on application filed by applicant Brij Mohan for return of DBBL-12 Bore gun make Indian alongwith licence. Learned counsel for the applicant placed on record copy of order dated 16.09.2010 passed by Hon'ble High Court. Learned Public Prosecutor submitted that vide aforesaid order dated 16.09.2010 Hon'ble High Court has convicted the accused and has reduced the sentence to the period which he has already undergone i.e. Nine Months and 17 days under Sections 323, 307 IPC meaning thereby the accused has convicted. In such eventuality, the double barrel gun and licence, which was used for the alleged offence, cannot be returned to the accused/ applicant Brij Mohan. Hence, the said DBBL 12 bore gun alongwith his licence are ordered to be confiscated to the State as per rules. This application stands disposed of accordingly."

In the reply filed by the State, in para 4, it has been specifically mentioned that vide letter No.13772 dated 27.7.1984, Government of Hayrana constituted the Evaluation Committee in each District for evaluation of confiscated weapons lying in the District Malkhana. In the

present case, as per law and procedure and Arms Rules and Disposal Manual, 2019, vide order dated 6.7.2015, in the presence of Sub Registrar, Sirsa being duty Magistrate 12 bore gun alongwith two cartridges have been disposed of by the AIA Hayana, Police, DGP, Kot Madhuban.

The weapon, which belonged to the appellant, being used in the crime, was confiscated. Since the appellant was not acquitted by this Court and only the order of sentence was modified to the period already undergone by him, the weapon was destroyed as per procedure and according to the Arms Rules, 2016 and Disposal Manual, 2019. Thus, this Court finds no merits in the present appeal and the same is hereby dismissed.

9.12.2022
gsv

(AMAN CHAUDHARY)
JUDGE

Whether speaking/reasoned	:	Yes / No
Whether reportable	:	Yes / No