

CRR-2521-2023 (O & M)
(245)

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

CRR-2521-2023 (O & M)
Date of Decision: 15.12.2023

Sandeep Kumar

... Petitioner

Versus

State of Haryana

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present: Mr. Diwan S. Adlakha, Advocate,
for the petitioner.

Mr. Kanwar Sanjiv Kumar, AAG, Haryana,

JASJIT SINGH BEDI, J.

CRM-47588-2023

Since the prayer made in this application has been rendered
infructuous, the same is disposed of as such.

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The present revision petition has been filed against the
judgment dated 23.10.2023 passed by the Sessions Judge, Yamuna Nagar
in CrI. Appeal No.153 of 2018 whereby the judgment of conviction and
order of sentence dated 19.04.2018 and 20.04.2018 passed by the Judicial
Magistrate Ist Class, Yamuna Nagar at Jagadhri, has been partly allowed
with a modification of the sentences.

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2. The brief facts of the case are that the petitioner-Sandeep Kumar made a complaint to the investigating agency stating that he was the owner of a gun shop at Jagadhri by the name of ‘Yamuna Nagar Gun House’ where licence holders deposited their fire arms due to Lok Sabha Elections. On 05.04.2014, his (Sandeep Kumar’s) friend/Sukhdev Singh came to his shop and without his knowledge took away a lincensed revolver alongwith six live cartridges which had been deposited by one Kulwinder Singh on 13.03.2014.

On this complaint, the FIR was registered under Section 380 IPC and Sections 25 of the Arms Act, 1959. The petitioner was arrested. It transpired during investigation that the said Sukhdev Singh had committed suicide from the stolen weapon by firing one bullet from it and his body had been found lying on the roof-top of his relative’s house alongwith the weapon and cartridge.

3. Based on the evidence led, the petitioner came to be convicted by the Court of JMIC, 1st Class, Yamuna Nagar, Jagadhri vide judgment dated 19/20.04.2018 for the offence punishable under Section 30 of the of the Arms Act, 1959 and sentenced as under:-

Offence U/S	Sentence (SI)	Fine (Rs.)	In default of payment of fine
30 of the Arms Act	06 Months	Rs.2,000/-	(SI) 07 days

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4. The petitioner preferred an appeal which was partly allowed by the Court of the Sessions Judge, Yamuna Nagar. The Lower Appellate Court while upholding the conviction modified/reduced the substantive sentence to 04 months though the fine amount was kept intact.

5. The present petition has been preferred against the aforementioned judgments of conviction and orders of sentence.

6. The learned counsel for the petitioner contends that the petitioner has been falsely implicated in the present case. No fault or negligence on the part of the petitioner had been proven. In fact, the petitioner himself got registered the FIR that on 05.04.2014, Sukhdev Singh @ Sukhi had stolen the revolver with six live cartridges from his shop. There was no willful violation of any conditions of the Arms Act or Rules at the instance of the petitioner. PW-3 and PW-5 who were closely related to Sukhdev Singh (deceased) had not levelled any allegation whatsoever against the petitioner regarding his involvement in the alleged commission of the offence. There were material discrepancies in the statements of the prosecution witnesses. The case property had not been produced in the Court in the absence of which the story of the prosecution could not be believed. In fact, the offence under Section 30 of the Arms Act, 1959 was not attracted as there was no evidence of any negligence on the part of the petitioner in keeping the .32 bore revolver in his custody. He, therefore, contends that the present petition is to be allowed and the petitioner was to be acquitted of the charges framed against him. Reliance is placed on the judgment in

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‘Tarlochan Singh @ Rana versus State of Punjab 2022(2) RCR (Criminal) 881’.

7. The custody certificate of the petitioner dated 13.12.2023 has been placed on record by the learned counsel for the State, as per which, the petitioner has undergone a total custody of 01 month and 21 days out of the awarded sentence of 04 months vide judgment dated 23.10.2023 passed by the Sessions Judge, Yamuna Nagar.

8. The learned counsel for the State contends that the offence stands well-established against the petitioner. In fact, it was he who had filed the complaint leading to the registration of the FIR regarding taking away of the weapon in question from his premises by the deceased. Therefore, he was grossly negligent in keeping the weapon securely. As such there was no reason to interfere with the well-reasoned judgments of the Trial Court and the Lower Appellate Court. Therefore, the present petition was liable to be dismissed.

9. In have heard the learned counsel for the parties.

10. As per the case of the prosecution, the petitioner himself had got registered the FIR in question with the allegations as has already been mentioned hereinabove. Admittedly, he was running a gun house and the weapon had been taken away from his custody. Therefore, he was certainly negligent in securing the weapon in terms of Rule 47 of the Arms Rules, 1962 as per which, it was his responsibility to keep the weapon in his safe custody. However, by omitting to keep the same securely and by loading it with six live cartridges and by concealing it in

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an unsafe manner under his bed's pillow, he has certainly committed the offence in question. The judgment in *Tarlochan Singh @ Rana (supra)*, however, does not come to his aid because in that case, the weapon had been taken away surreptitiously by the accused who was convicted for murder from the farm-house where it was lying unknown to the owner of the farm-house who was also the owner of the weapon. In the instant case, however, the weapon was admittedly lying in the safe custody of the petitioner.

11. In view of the aforementioned discussion, I do not find any reason to interfere with the well-reasoned judgments of the Trial Court and the Lower Appellate Court. Therefore, the present petition stands dismissed.

12. As regards the imposition of sentence, it may be pointed out that the occurrence pertains to the year 2014 and as many as 09 years have elapsed ever since then. Therefore, I deem it appropriate to reduce the substantive sentence of the petitioner from a period of 04 months simple imprisonment to the period already undergone by him i.e. 01 month and 21 days simple imprisonment. However, the sentence in default of payment of fine shall remain intact.

(JASJIT SINGH BEDI)
JUDGE

December 15, 2023
sukhpreet

Whether speaking/reasoned:- Yes/No

Whether reportable:- Yes/No