

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.2038 of 2019

Arising Out of PS. Case No.-221 Year-2007 Thana- BARHIYA District- Lakhisarai

SHIV SHANKAR SINGH @ BAMBAM SINGH Son of late Banke Singh
Resident of Village-Gana Sarai, P.S.-Barahiya District-Lakhisarai.

... .. Appellant/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Arun Kumar

For the Respondent/s : Mr.Syed Ashfaque Ahmad

CORAM: HONOURABLE MR. JUSTICE SANDEEP KUMAR
ORAL ORDER

8 24-10-2024 Heard Mr. Ram Vinay Prasad Singh learned counsel
for the appellant and Mr. Jharkhandi Upadhyay, learned Special
P.P. for the State.

2. The present appeal has been preferred against the judgment of conviction and order of sentence dated 13.3.2019 passed in Session Trial Case No. 131/2010 by the learned Fast Track Court II, Lakhisarai whereby and whereunder the appellant has been convicted u/s 25(1-A) of the Arms Act and sentenced to undergo R.I. for Ten (10) years along with Fine of Rs. 10,000/- and in default one month simple imprisonment and further convicted under section 26(2) of the Arms Act and sentence for 10 (Ten) years along with Fine of Rs. 10,000/- (Ten Thousand) and in default one month simple imprisonment also and all the sentences shall run concurrently.



3. The prosecution case as set out in First Information Report is that informant P.W.6 Shrawan Kumar Singh who is officer-in-charge of Barahiya police station has submitted a written report on 24.11.2007 before the learned Chief Judicial Magistrate, Lakhisarai alleging *inter alia* therein that he got confidential information regarding possession of illegal arms then he proceeded along with police party to village Gangasarai, raided the house of accused-appellant Shiv Shankar Singh @ Bambam Singh as well as two other persons' house in presence of two independent witnesses and recovered one AK 56 rifle along with 150 Cartridges, 3 Magazines, two sets mobile Phone beneath the bed upon which accused-appellant used to sleep. Seizurelist was prepared as no authentic paper regarding the recovered article could be produced and as such the appellant Bambam Singh was asserted and on that basis Barahiya P.S. Case No. 221/2007 corresponding to G.R. Case No. 1363/2007 was instituted under the aforementioned sections of the Arms Act.

4. After investigation Police submitted charge sheet under provisions of Arms Act and learned A.C.J.M., Lakhisarai took cognizance vide order dated 18.01.2010 U/S 25(1-B)A, 26,35 of Arms Act and thereafter vide order dated 09.02.2010



the case was committed to the Court of Sessions vide order dated 09.2.2010 and ultimately on 27.5.2010 charge under sections 25(1A), 26(2) of the Arms Act has been framed against the accused.

5. The prosecution has examined altogether seven prosecution witnesses such as P.W.1 Ajit Kumar Singh, P.W.2 Anandi Singh, P.W.3 Mahfooj Alam, P.W.4 Mukesh Kumar, P.W.5 Arun Kumar Singh, P.W.6 Shrawan Kumar Singh (A.S.I) who is the informant of the case apart from that two court witnesses have also been examined.

6. The appellant was convicted under Sections 25(1-A) and 26(2) of the Arms Act.

7. Learned counsel for the appellant, at the very outset, does not challenge the conviction and he has pressed this appeal on the quantum of sentence.

8. It has been submitted by the learned counsel for the appellant that the appellant has undergone imprisonment for 6 ½ years which includes 3 ½ years imprisonment after conviction. He further submits that the appellant has no previous conviction and is not accused in any other case.

9. Considering the aforesaid, the sentence of the petitioner is modified to the extent that the appellant is



sentenced to undergo rigorous imprisonment for 7 years and is liable to pay a fine of Rupees Five Hundred. Both the sentences will run concurrently.

10. In view of the above, this appeal is partly allowed.

(Sandeep Kumar, J)

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