

HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRA-S-418-2024

Decided on 04.03.2024

Ushabjot Singh @ Shubhdeep Singh @ Utshubhjot Singh ... Petitioner

VS.

State of Punjab

... Respondent

CORAM: HON'BLE MR.JUSTICE SANDEEP MOUDGIL

Present: Mr. GS Nahel, Advocate for the petitioner

Mr. JS Rattu, DAG Punjab

Sandeep Moudgil, J.

(1). The present criminal appeal is directed against the judgment and order dated 11.12.2023 vide which the appellant was convicted under Sections 25, 27 of the Arms Act and was sentenced to undergo RI for two months in case FIR No.79 dated 18.05.2022 under Sections 307/341/323/148/149/120-B IPC and 25/54/59 of Arms Act, registered at Police Station Sadar Patiala.

(2). Learned counsel for the appellant vehemently contends that the judgment dated 11.12.2023 vide which the appellant has been convicted to undergo RI for two months is absolutely illegal and against any material evidence *qua* the present appellant. He seeks setting aside of the judgment and order primarily on the ground that in the main appeal wherein offences under Sections 307, 341, 323, 148, 149, 120-B IPC and 25/54/59 of Arms Act were invoked against 5 persons including the present appellant and all the accused persons (except the appellant) stand acquitted on account of the witnesses of the prosecution turning hostile vide judgment dated 11.12.2023 whereas in the present case, the accused persons were arrested after laying naka and intercepting their tractor as is narration made in the FIR No.79 dated

18.05.2022, while the appellant was found driving one tractor which did not have any number plate with the engine No. E-227878496.

(3). Learned State counsel submits that the trial court judgment is based on facts and is legally sustainable inasmuch as the appellant has been found to be involved in the alleged occurrence and as such, he has been rightly awarded the sentence under Section 25/27 of the Arms Act.

(4). Heard learned counsel for the parties and gone through the record.

(5). It is pertinent to mention here that as per the prosecution story, there were total four weapons recovered by the police during the investigation of the present case and the same read as under:-

i. one pistol was allegedly recovered or the disclosure statement of co-accused Inderjit Singh from his house,

ii. one licensed revolver was allegedly produced by co-accused Harbhajan Singh bearing NO.FG 48652 allegedly used by his son namely Amarjit Singh (co-accused),

iii. one 32 bore pistol alongwith 5 live cartages was allegedly recovered on the disclosure statement of co-accused Gurmeet Singh @ Goldy from his house

iv. one desi pistol was allegedly recovered on the disclosure statement of co-accused Inderjit Singh @ Billa from his house.

(6). Even as per the prosecution version no weapon whatsoever was recovered from the present appellant during the investigation. There is nothing on record to establish that the appellant was in possession of arm/pistol, however, the trial Court ignored this fact while convicting the present appellant U/s 25, 27 Arms Act inasmuch as even as per the version in the FIR, only co-

accused Amarjit Singh was allegedly armed with pistol and hence, no offence U/s Arms Act was made out against the present appellant. It is settled law that to convict a person under the Arms Act, the conscious possession thereof needs to be there whereas in that case the arms and cartages were recovered from the other co-accused. Certainly, the trial court judgment is based on conjecture and surmises and as such withstand in the eyes of law and as such, he could not have suffered the sentence for the offence which was never committed by him.

(7). In light of the above, the present appeal is allowed and the judgment and order dated 11.12.2023 qua the appellant is hereby set aside.

(8). The appellant shall be liberty to take proper recourse in accordance with law to seek compensation for his sentence already undergone though no fault has been attributed to the appellant and despite being innocent has been made to suffer incarceration.

04.03.2024

V.Vishal

- 1. Whether speaking/reasoned?
- 2. Whether reportable?

(Sandeep Moudgil)
Judge

- Yes/No
- Yes/No