

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL REVISION No.621 of 2019**

Arising Out of PS. Case No.-18 Year-2010 Thana- SARAI RANJAN District- Samastipur

Ranjeet Rai @ Ranjit Roy, Son Of Suresh Rai @ Suresh Roy, Resident Of
Village- Surmar Meyari, Police Station- Saray Ranjan, District- Samastipur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Rana Sanjay Kumar Singh, Advocate
For the State	:	Mr. Anand Mohan Prasad Mehta, APP

**CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL JUDGMENT**

Date : 29-04-2025

The present Criminal Revision petition has been preferred by the petitioner against the impugned judgment dated 01.03.2019, passed by learned Additional Sessions Judge-VI, Samastipur in Criminal Appeal No. 46 of 2013, whereby learned Appellate Court below has upheld the judgment of conviction and order of sentence dated 31.05.2013, passed by Sri Kumar Risikesh, learned Judicial Magistrate 1st Class, Samastipur in G.R. No. 414 of 2010, corresponding to Trial No. 1139 of 2013, whereby learned Magistrate has found the petitioner herein guilty under Section 25(1-B)a and 26(1) of the Arms Act and sentenced him to R.I. for two years and a fine of Rs. 1,000/- each under both the penal provisions and in default to pay the fine, the petitioner was directed to undergo further S.I. For 60



days and both the sentenced were directed to run concurrently.

2. The factual background of the case is that on the basis of self statement of S.I. Vijay Kumar Sinha, Sarai Ranjan, police station dated 10.03.2010, Sarai Ranjan P.S. Case No. 18 of 2010 was registered against the petitioner for offence punishable under Sections 25(1-B)a and 26 of the Arms Act.

3. The prosecution case, as emerging from the self statement of the informant, is that in course of investigation in connection with Ujiyarpur P.S. Case No. 36 of 2010, the informant along with other police personnel apprehended the petitioner along with the motorcycle bearing Registration No. BR-33D-3537 and after body search of the petitioner, one country made pistol and one live cartridge of 315 bore were recovered from his possession.

4. After investigation, charge-sheet bearing No. 51 of 2010 dated 05.05.2010 was submitted by the police against the sole accused (petitioner herein) and thereafter, cognizance was taken and charge was framed and trial was initiated.

5. During trial, altogether 12 prosecution witnesses were examined which are as follows : **P.W.-1.** Ram Sevak Jha, who was posted at Sarai Ranjan police station as Duffadar, **P.W.-2.** Shankar Roy, who was posted at Sarai Ranjan police



station as Chowkidar, **P.W.-3.** Gopal Prasad Singh, who was officer-in-charge of Ujiyarpur police station, **P.W.-4.** Krishna Nandan Prasad Singh, who was posted at Sarai Ranjan police station as a Constable, **P.W.-5.** Puran Kumar Singh, who was also posted at Sarai Ranjan police station as a Constable at the relevant time, **P.W.-6.** Azad Ahmad Khan, who was also a police Constable posted at Sarai Ranjan, **P.W.7.** Pramod Kumar Singh, who was officer-in-charge of Ujiyarpur police station, **P.W.8.** who is also a police Constable posted at Sarai Ranjan police station, and produced material exhibit in the Trial Court, **P.W.9.** Jogendra Ojha, is also a police official at Sarai Ranjan police station at the relevant time, **P.W.-10.** Bhuwaneshwar Das is a S.I. posted at Ujiyarpur police station at the relevant time, **P.W.-11** Vijay Kumar Sinha is officer-in-charge of Sarai Ranjan police Station and **P.W.-12** Dinesh Kumar Singh is Sergeant Major, who had tested the efficacy of the seized arms.

6. The following documents were also exhibited on record : **Ext-01** – signature of P.W.-1 on seizure list, **Ext-1/1** – signature of P.W.-2 on the seizure list, **Ext-1/2-** signature of P.W.-3 on seizure list, **Material Ext.-I** country made pistol, **Material Ext-II** - cartridge, **Ext.-03** - signature of Ramnuz Sharma on inquiry report, **Ext.-04-** self statement of the



informant, **Ext.05** -endorsement **Ext.06** - signature of Vijay Kumar Singh on seizure list, and **Ext. 2A** - signature of District Magistrate on the prosecution sanction report, **Ext.5/1** - signature on self statement by P.W.-11 and **Ext. 3/1** - signature on computer typed report by P.W.-12.

7. I heard learned counsel for the petitioner and learned APP for the State.

8. Learned counsel for the petitioner submits that the impugned order passed by learned Appellate Court below as well as the judgment of conviction and order of sentence passed by learned Trial Court below are not sustainable in the eye of law as well as on facts.

9. He further submits that the recovery of the arms from the petitioner has not been proved by the prosecution beyond all reasonable doubts. To substantiate his claim, learned counsel for the petitioner submits that there are two witnesses to the seizure as per the seizure list viz., Ram Sevak Jha and Shankar Roy and both are police officials who were members of the raiding party. No independent witness was made a witness to the seizure memo despite the fact that as per the prosecution case, the petitioner was apprehended by the police in the village. Naturally, co-villagers might be present at the place of seizure.



Moreover, the seizure witnesses, who have been examined by the prosecution, have not proved the seizure. These two seizure witnesses are examined as P.W.-1 and P.W.-2. P.W.-1/Ram Sevak Jha has deposed in his cross-examination that he has not searched the body of the petitioner and he is not aware wherefrom the officer-in-charge of the police station had brought the pistol. Second seizure witness, Shankar Roy, who has been examined as P.W.-2, in his cross-examination, has deposed that it is the Duffadar who had seized the arms from the body of the petitioner, whereas P.W.-1/Ram Sevak Jha, who was posted at Sarai Ranjan police Station as Duffadar and was a member of the raiding party, in his evidence, has deposed that he had not searched the body of the petitioner. He is also not aware wherefrom the officer-in-charge of the police station had brought the pistol.

10. He further submits that there are also other contradictions in the prosecution evidences in regard to the alleged seizure of the arms from the petitioner. There is no evidence in the prosecution witnesses to show that the seized arms were sealed at the place of seizure in the presence of accused-petitioner. There is also no evidence to prove that the seized arms was deposited in *malkhana* with identification



marks.

11. He further submits that the petitioner has already suffered about 18 months in custody, whereas he has been sentenced for imprisonment of two years.

12. However, learned APP for the State defends the impugned order submitting that there is no illegality or infirmity in the impugned judgment or in the judgment and order of the learned Trial Court and hence, the present Criminal Revision petition is liable to be dismissed.

13. He further submits that in view of concurrent finding of the learned Trial Court as well as Appellate Court, there is little scope for this Court under revisional jurisdiction to interfere in the impugned judgment. Under revisional jurisdiction, the judgment of Trial Court or Appellate Court can be interfered only if there is perversity in finding of facts or there is error of law. But in the impugned judgment, there is no such error of law or any perversity of finding. The judgment of learned Trial Court as well as Appellate Court is well reasoned and based on cogent prosecution evidence.

14. I considered the submissions advanced by the parties and perused the materials on record.

15. I find that the whole prosecution case is based on



the alleged recovery of one country made pistol and one live cartridge from the possession of the petitioner and there are two police official witnesses to the seizure of the arms from the possession of the petitioner and both these witnesses have been examined. But I find that the evidence of the seizure witnesses suffers from serious infirmity and material contradictions creating reasonable doubts in the prosecution case, making the petitioner entitled to get acquitted by getting benefit of reasonable doubts.

16. I find that P.W.-2, who is one of the seizure witnesses, has deposed that the search was made by P.W.-1/Ram Sevak Jha, who was a Duffadar and member of the raiding party. But Ram Sevak Jha, who was examined as P.W.-1, himself has denied that he had made any body search of the petitioner and he is not even aware wherefrom the pistol was brought by the officer-in-charge of the police station. P.W.-2 has further deposed in his cross-examination that he was not aware what was written in the seizure memo. Moreover, I do not find any evidence regarding sealing of the seized arms at the place of seizure, nor is any evidence to show whether the arms and ammunition were safely kept in *malkhana* with identification marks. As such, there is reasonable doubt created in the prosecution case against the petitioner.



17. Hence, there is perversity of findings by both the Courts below and hence, the impugned judgment of the Appellate Court below and judgment and order of the Trial Court are not sustainable in the eye of law and liable to be set aside.

18. Accordingly, the impugned judgment passed by learned Appellate Court below and the judgment and order of the Trial Court are set aside, acquitting the petitioner of all the charges, allowing the present Criminal Revision petition.

19. LCR be sent back to the Court concerned along with a copy of this order.

(Jitendra Kumar, J.)

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AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	30.04.2025.
Transmission Date	30.04.2025.

