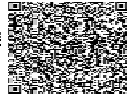


2025:PHHC:035728



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH.**

CRR-861-2008(O&M)

Date of Decision:-17.03.2025

Jagtar Singh.

.....Petitioner.

Vs.

State of Punjab.

.....Respondent.

CORAM:- HON'BLE MR. JUSTICE JASJIT SINGH BEDI

Present:- Mr. P.S. Brar, Advocate for the Petitioner.

Mr. Harkanwar Jeet Singh, AAG Punjab.

JASJIT SINGH BEDI, J.

The present revision petition has been filed impugning the judgment dated 01.04.2008 passed by Additional Sessions Judge, Faridkot whereby the appeal filed against the judgment of conviction and order of sentence dated 15.11.2006 passed by Chief Judicial Magistrate, Faridkot has been dismissed.

2. The FIR in the present case came to be registered on 24.01.2003. The judgment of conviction was passed on 15.11.2006 by the Chief Judicial Magistrate, Faridkot. The Appeal filed against the order of conviction was dismissed on 01.04.2008 by the Additional Sessions Judge, Faridkot. The instant revision was filed on 07.05.2008 and has come up for final hearing now i.e. after a period of 22 years from the date of registration

of the FIR.

3. The prosecution story in brief is that on 24.01.2003 ASI Rachhpal Singh along with ASI Chint Ram, HC Hira Singh, HC Nirmal Singh, and other police officials on government canter alongwith Satwant Singh Incharge CIA Staff, Faridkot, were present on the drain bridge in connection with a special Nakabandi. Darshan Singh SI/SHO P.S. Sadar, Faridkot alongwith HC Surinder Singh and other police officials and ASI Bachittar Singh alongwith other police officials of P.S Sadar, Kotkapura also came there. Some informant gave secret information to Satwant Singh Incharge CIA staff that Jagtar Singh accused along with four more persons were present in the Chhapri (pond) situated in the Bir Sikhanwala near Dera of Baba Kala Mahir and were making schemes to commit thefts and robberies. The incharge sent a ruqa to the Police Station Sadar, Faridkot for registration of the case. Thereafter the whole police party reached the place as disclosed in the secret information and formed separate parties. In the party of ASI Rachhpal Singh were HC Surinder Singh, HC Jagjit Singh and constable Gurjant Singh. When the police parties reached the chhapri, the persons present there ran in different directions out of whom the accused was apprehended by the police party of ASI Rachhpal Singh. On a personal search of the accused, from the right side dub of the pants of the accused one 315 bore country made double barrel pistol was recovered. On unloading the pistol two live rounds of 315 bore were recovered. From a further search of the accused currency notes of Rs.40/- were also recovered from the right side dub of the pants worn by the accused. The Rough sketch of the pistol was prepared and the pistol and the six rounds of 315 bore were taken into possession after converting the same into parcels and sealed with seal bearing impression RS. The currency notes were also taken into police possession. A Rough site plan of the place of recovery of the pistol was

prepared. Statements of the witnesses were recorded. The accused was arrested. On return to the police station, the accused was lodged in the police lock up and the case property was deposited with the MHC. Sanction of the District Magistrate, Faridkot was obtained for prosecution against the accused under Section 25 of the Arms Act. After completion of the investigation challan against the accused was presented in Court.

4. Finding a prima facie case punishable under Section 25 of the Arms Act, charge was framed accordingly against the accused to which he pleaded not guilty and claimed trial.

5. The prosecution examined PW1 MHC Pal Singh, PW2 Ashok Kumar, PW3 ASI Rachhpal Singh, PW4 HC Surinder Singh and PW5 Gurnam Singh and then closed the prosecution evidence.

6. All the incriminating circumstances were put to the accused in his statement recorded under Section 313 of the Cr.P.C. which he denied and pleaded innocence.

7. Based on the evidence led, the accused came to be convicted and sentenced by the court of Chief Judicial Magistrate, Faridkot vide judgment and order of sentence dated 15.11.2006 as under:-

Offence under Section	Sentence RI/SI	Fine	RI/SI in default of payment of fine
25 Arms Act	RI for 02 Years	Rs.2,000/-	RI for 01 Month

8. The accused/petitioner preferred an appeal which came to be dismissed by the Court of Additional Sessions Judge, Faridkot vide judgment dated 01.04.2008.

9. The aforementioned judgments are under challenge in the present petition.

10. During the pendency of the instant revision petition, the sentence of the accused/petitioner was suspended vide order dated

04.08.2008.

11. The counsel for the accused/petitioner contends that the pistol allegedly recovered from him has not been proved to be in working condition in the absence of it having been test fired. Further PW-5 Gurnam Singh HC in his cross examination has categorically stated that he had not checked the firing pin and nor did he mention anything in this regard in his test report Ex.PW-5/A. Therefore, it could not be said that the weapon allegedly recovered from the accused was a firearm entailing conviction under the Arms Act.

12. The Counsel for the State on the other hand has filed a custody certificate dated 09.03.2025 in the court today, which is taken on record. He contends that PW-5 Gurnam Singh, HC had examined the weapon and as per his report Ex.PW-5/A it was found to be in working condition. Further there was no requirement of the weapon being test fired and mere examination was sufficient. Therefore, the present petition was liable to be dismissed.

13. I have heard learned Counsel for the parties and examined the record.

14. As regards the argument that since the weapon had not been test fired it could not be said to be in working condition, it has been held in **Jarnail Singh Vs. State of Punjab 1999(1) RCR (Criminal) 166, Harnek Singh Vs. State of Punjab 1999(1) RCR (Criminal) 171 & Mohan Vs. State of Madhya Pradesh Criminal Revision No.3172 of 2019 Decided on 29.08.2019** that test firing is not required where the weapon has been examined and found to be in working condition.

15. As regards the argument that since the firing pin had not been seen the weapon could not to be said to be a firearm in working condition it would be useful to examine the deposition of PW-5 Gurnam Singh, HC is

reproduced herein below:-

“ *State versus Jagtar Singh*

PW-5 Statement made by Gurnam Singh HC No. 411/FDK, Police Lines, Faridkot on SA.

On 17.02.2003, I was present at Police Station Sadar Faridkot. At that time, HC Pirthipal Singh produced a parcel duly sealed before me to check after taking out the same from the malkhana. I broke the seal RS and checked a country made 315 bore double barrel pistol with my gauge. Trigger action was checked and it was in working condition. It was used without cartridges and it was found in working condition. After checking, I sealed the said parcel with my seal bearing GS and produced case property and Test Report before HC Pirthi Pal. My Test Report Is. Ex-PW5/A. My statement was recorded.

XXXXXXXXXX

Today, I have not seen case property. I did not see the mark ---- (some text illegible) on the sections of finger. We don't possess any instrument to check cartridge. The barrel was smooth. Neither I checked firing pen nor mentioned anything in that regard. There were two triggers. I did not mention in my report that both the triggers were checked. The trigger was without guard. The barrel was clean. This barrel was not taken to use earlier. It is wrong to suggest that I am deposing falsely.

*RO& AC
Sd/- Gurnam Singh*

*Sd/-
CJM/12.04.06”*

16. How a firearm propels a projectile has been explained in Modi's Medical Jurisprudence and Toxicology 25th Edition at Page 621 and reads as under:-

Firearms. -Firearm is any instrument/device, which propels a projectile(s) by the expansion of gases generated by the combustion of an explosive substance, Ballistics is the study of physical forces reacting on projectile(s) and missile(s) and their motion.

Every shotgun has a barrel, which is a long, hollow cylinder of steel. The lumen of the barrel is termed the "bore", the rear end in which the cartridge is inserted is called the breech and the front end the 'muzzle'.

The shotguns are called breechloaders and muzzleloaders accordingly on the ammunition, Missiles/projectiles are loaded at the

*breech end into a chamber and they are forcibly driven forwards along the barrel by the detonation of an explosive charge, which forms gases at a high temperature and great pressure in the chamber at the closed end of the barrel. The projectile reaches its maximum velocity as it comes out at the open end of the barrel and this is called 'muzzle velocity'. **By pulling a trigger, which releases a hammer or pin and strikes over the percussion cap at the base of the cartridge the primer contained in percussion cap is detonated and it fires the propellant charge.** A service rifle needs around five pounds of pressure on the trigger to release the hammer while a revolver needs three to five pounds for single action and around 15 pounds for double action. The breech pressure in a rifle is about 20 tons while in a revolver it is only about six tons per square inch. There are also semi-automatic/automatic weapons, where the firing mechanism is automatic and in some, even the loading of cartridges is automatic from containers called magazines. During the free flight of the missile its shape, weight, muzzle velocity and the medium through which it passes are the factors that determine its range and energy with which it strikes the target."*

17. Apparently, when the trigger is pulled, it releases a hammer or a pin which then strikes the percussion cap at the base of the cartridge which propels (fires) the same. Thus in the absence of checking for a firing pin it cannot be ascertained that a shot could be fired and therefore, the weapon cannot be stated to be a firearm in working condition.

18. In view of the aforementioned discussion, once PW-5 Gurnam Singh, HC in his report Ex.PW-5/A has only referred to the examination of the trigger and in his cross examination has categorically stated that he had not checked the firing pin nor mentioned anything in that regard in his report, it cannot be said that the weapon allegedly recovered was a firearm in a working condition designed to discharge a projectile.

20. Resultantly, the present petition is allowed and the judgment of conviction dated 15.11.2006 passed by Chief Judicial Magistrate, Faridkot as well as judgment dated 01.04.2008 passed by Additional Sessions Judge, Faridkot dismissing the appeal preferred by the petitioner/accused are set aside. The accused/petitioner is acquitted of the charges framed against him.

(JASJIT SINGH BEDI)
JUDGE

March 17, 2025

Vinay

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