

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH.

108

2026:PHHC:076210



CRA-S-3918-SB-2018 (O&M)
Decided on: May 14, 2026.

MOHIT @ MONU

...Appellant

Versus

STATE OF HARYANA

...Respondent

CORAM: HON'BLE MR. JUSTICE VINOD S. BHARDWAJ

PRESENT Ms. Khushboo Gupta, Advocate, (Legal-aid-counsel)
for the appellant.

Ms. Chhavi Sharma, AAG, Haryana.

VINOD S. BHARDWAJ. J. (ORAL)

The above appeal has been preferred against the judgment of conviction and order of sentence dated 07.06.2018 passed by the Additional Sessions Judge, Gurugram in Sessions case bearing No.46 dated 26.05.2017 arising out of FIR bearing No.173 dated 18.02.2017, under Sections 392, 397 of the Indian Penal Code, 1860 and Section 25 of

the Arms Act, 1959, registered at Police Station Sector 5, District Gurugram, whereby the appellant has been convicted for commission of offence under Section 25 of the Arms Act and vide order of even date has been sentenced to undergo imprisonment for a period of one year and to pay a fine of Rs.5,000/- and in default of payment of fine to further undergo imprisonment for three months.

2 In brief the facts of the prosecution case are that on 18.2.2017, complainant Deepak Kumar moved a written complaint to the effect that he is working as driver on Innvoa bearing registration No. UP-14AT-4791. On 17.2.2017 at about 11.50pm, he after dropping the passenger in Laxman Vihar was going towards water works, Sector 5, Gurugram via Railway Road. When he reached ahead of water works of Sector 5, Gurugram, then four young boys signaled him to stop the vehicle. When he stopped the vehicle then one of those young boys pointed pistol on his temple and he was asked to alight from the vehicle. One of them sat on the driving seat and other three young boys caught hold of him. When he raised an alarm then those young boys abandoned him and fled away with the car. He claimed that he could identify those young boys if they were brought before him. His driving licence, mobile and documents were also kept in the vehicle.

3 On this, above FIR under section 392, 397 IPC was registered. Investigation was carried out by ASI Narvir Singh.

4 During the course of investigation, the investigating agency conducted inspection of the place of occurrence and prepared a rough site plan thereof. Statement of witnesses were recorded. Subsequently,

offences punishable under Sections 25, 54 and 59 of the Arms Act were added. The looted Innova vehicle bearing registration No. UP-14AT-4791 was abandoned by the accused persons while attempting to evade the police naka during nakabandi proceedings. The said vehicle was thereafter recovered and taken into police possession. Thereafter, further investigation was carried out by ASI Murari Lal. During the course of investigation, appellant-accused Mohit @ Monu and co-accused Satish @ Bholu @ Sunny were arrested on 19.02.2017 and their disclosure statements were recorded. Pursuant to the disclosure statement made by appellant-accused Mohit @ Monu, one country-made pistol used in the commission of the offence was recovered, whereas co-accused Satish @ Bholu got recovered the documents pertaining to the looted Innova vehicle. Place of occurrence was also got demarcated and site plan was got prepared. It is also averred that all the accused made statements before the Court expressing their unwillingness to participate in a Test Identification Parade, whereafter certified copies of the orders were obtained. The co-accused Sidharth, who had sustained injuries while attempting to flee upon noticing the police naka and was admitted in a hospital was arrested on 22.02.2017 and his disclosure statement was also recorded. Thereafter, on 26.02.2017, co-accused Arun, who was admitted in PGI, Rohtak was arrested and his disclosure statement was also recorded. After completion of investigation, final report under Section 173 Cr.P.C was submitted against appellant-accused persons.

5 After supplying copies of final report under Section 173 Cr.P.C. and other documents relied upon by the prosecution to the appellant, as envisaged under section 207 Cr.P.C., Judicial Magistrate Ist

class, Gurugram, vide order dated 15.5.2017, committed the case to the Court of learned Sessions Judge, Gurugram.

6 After hearing learned counsel appearing on behalf of the parties and upon perusal of the material available on record, the Trial Court formed an opinion that a prima facie case for commission of offences punishable under Sections 392 and 397 of the Indian Penal Code as well as Section 25 of the Arms Act was made out against the appellant-accused. Consequently, charges were framed against the appellant-accused vide order dated 05.06.2017, to which he pleaded not guilty and claimed trial.

7 The prosecution, in support of its case, examined the following witnesses:

PW1: C. Surender

PW2 : ASI Girish Kumar, Draftsman

PW3 : Ct. Virender Kumar

PW4 Deepak Kumar (complainant)

PW5 Phool Singh

PW6 HC Kuldeep

PW7 ASI Vijay Kumar

PW8 HC Sandeep Kumar

PW9 SI Mohd Usman

PW10 SI Satish Kumar

PW11 ASI Narvir Singh

PW12 ASI Murari Lal

8 PWs Ct. Khub Ram, EHC Karambeer and Inspector Jitender Kumar were given up by Public Prosecutor for the State being unnecessary. Thereafter, prosecution evidence was closed by learned Public Prosecutor for the State vide statement dated 2.5.2018.

9 Thereafter, all the incriminating circumstances and material appearing against the appellant-accused in the prosecution evidence were put to him under Section 313 Cr.P.C. The appellant-accused denied the allegations and controverted the prosecution case in its entirety and claimed that he was innocent and had been falsely implicated in the present case. Although the appellant-accused opted to lead evidence in defence, however, no evidence was led on his behalf.

10 The parties were heard by the trial Court and after considering the evidence adduced and the rival submissions advanced, the appellant was convicted for commission of offences under Sections 25 of the Arms Act, 1959 and sentenced as above. Hence the present appeal.

11 Since there is no representation on behalf of the appellant. Hence, it was deemed appropriate to nominate a legal aid counsel to assist this Court on behalf of the petitioner. Accordingly, Khushboo Gupta, Advocate, (PH-3348-2025, Mobile No.62396-09940) is nominated as legal-aid-counsel to represent the appellant in the present case and to assist this Court.

12 Learned legal aid counsel submits that the findings recorded by the Trial Court are based upon conjectures and surmises rather than legally admissible and cogent evidence. It is contended that the Trial Court failed to appreciate the settled principles of criminal jurisprudence

that suspicion, however grave, cannot take the place of proof and that the prosecution is required to establish its case beyond reasonable doubt by standing on its own legs, independent of any weakness in the defence of the accused.

13 It is further contended that the Trial Court failed to appreciate that the complainant himself had specifically stated that the appellant was not involved in the occurrence. Learned counsel argues that once the appellant stood exonerated and the prosecution case was disbelieved qua the principal allegations under the IPC offences, there remained no independent or reliable material to sustain conviction under the Arms Act alone, particularly in the absence of any corroborative or independent witness supporting the prosecution version.

14 Learned counsel further submits that the entire prosecution story appears to have been artificially constructed with the sole object of falsely implicating the appellant. It is argued that no independent witness was associated either at the time of alleged recovery or during investigation, thereby rendering the prosecution case highly doubtful.

15 It is also vehemently contended that the prosecution failed to obtain a valid and lawful sanction for prosecution under the Arms Act. Learned counsel submits that the sanction was accorded by the Joint Commissioner of Police, who was not the competent sanctioning authority. Consequently, the sanction relied upon by the prosecution is argued to be non est and invalid, thereby vitiating the entire prosecution under the Arms Act.

16 It is further argued that even otherwise, the mandatory legal requirements governing grant of sanction were not complied with in the

present case. Learned counsel submits that the sanctioning authority is required to apply an independent mind before according sanction and that the weapon recovered ought to have been produced before such authority. It is contended that no such procedure was followed in the present case.

17 Learned counsel also contends that the prosecution has failed to establish as to how and in what manner the search and recovery were effected from the residence of the appellant, particularly when no information regarding such proceedings was ever communicated to the local police station concerned at Delhi. It is submitted that neither any Daily Diary Report nor any contemporaneous record evidencing intimation to the local police has been produced on record, which casts a serious doubt upon the genuineness of the alleged recovery proceedings.

18 It is further submitted that the disclosure statement suffered by the appellant cannot be relied upon inasmuch as no independent witness was associated at the time of recording thereof. Learned counsel submits that once the prosecution itself failed to establish the major offences alleged under the IPC, it becomes highly improbable that the appellant would voluntarily make any inculpatory statement implicating himself in the commission of the offence under the Arms Act. The disclosure statement, thus, lacks credibility and evidentiary value.

19 Learned counsel also submits that several mandatory and statutory provisions governing search, seizure and investigation were not complied with during the course of investigation and Trial Court gravely erred in placing reliance solely upon official witnesses while no independent witness was examined to corroborate the prosecution story despite availability of such witnesses. Lastly, learned counsel submits that

even assuming the prosecution case to be correct, the sentence imposed upon the appellant is excessively harsh and disproportionate in the facts and circumstances of the case and, therefore, deserves to be reduced.

20 Per contra, learned State counsel contends that the appellant is a habitual and hardened offender who has been involved in multiple criminal cases of serious nature. It is submitted that, as reflected from the custody certificate placed on record, the appellant continues to remain in judicial custody as an undertrial in four other criminal cases, which clearly demonstrates his continued involvement in criminal activities and criminal antecedents.

21 Learned State counsel further submits that the conviction recorded against the appellant in the present case is based upon proper appreciation of oral as well as documentary evidence led by the prosecution and that the Trial Court has returned findings of guilt only after due consideration of the material available on record. It is contended that no perversity, illegality or misreading of evidence has been pointed out so as to warrant interference by this Court in exercise of appellate jurisdiction.

22 Learned State counsel, while responding to the contention that suspicion cannot take the place of proof, submits that the conviction of the appellant is not based on mere suspicion but upon legally admissible evidence, including the recovery effected pursuant to the disclosure statement of the appellant and the testimony of prosecution witnesses, which remained consistent and trustworthy throughout the proceedings. It is argued that the prosecution successfully discharged the burden cast upon it by establishing the guilt of the appellant beyond reasonable doubt.

23 Learned State counsel further contends that merely because the appellant was not ultimately convicted for the offences under the IPC would not ipso facto render the conviction under Section 25 of the Arms Act unsustainable. It is submitted that the offence under the Arms Act is distinct and independent in nature and once recovery of the illegal weapon stood proved in accordance with law, the conviction recorded under Section 25 of the Arms Act was fully justified.

24 Responding to the submission regarding absence of independent witnesses, learned State counsel contends that it is now well settled that testimony of official witnesses cannot be discarded merely on the ground that they belong to the police force, particularly when no animus, enmity or motive has been attributed against them for falsely implicating the appellant. It is submitted that non-association of independent witnesses is not fatal to the prosecution case where the official witnesses inspire confidence and their testimonies remain cogent and reliable.

25 Learned State counsel further submits that the plea of false implication is a bald assertion devoid of any substantive material and that no reason whatsoever has been shown by the appellant as to why the police officials would falsely implicate him by fabricating recovery of an illegal firearm.

26 With regard to the challenge to sanction under the Arms Act, learned State counsel contends that valid sanction had been obtained from the competent authority prior to institution of prosecution and that the appellant has failed to demonstrate any prejudice caused to him on account of the alleged irregularity in sanction. It is further submitted that

sanction is essentially an administrative act and unless gross failure of justice is demonstrated, minor procedural irregularities, if any, cannot vitiate the entire trial. He also submits that the sanction order itself reflects due consideration of the material placed before the authority and there exists a presumption in favour of regularity of official acts performed in discharge of statutory duties. It is argued that no evidence has been led by the appellant to rebut such presumption.

27 Learned State counsel further submits that the alleged discrepancies regarding intimation to the local police station at Delhi or absence of Daily Diary entries are merely procedural in nature and do not strike at the root of the prosecution case. It is contended that such omissions, even if assumed to exist, cannot outweigh the substantive evidence regarding recovery of the weapon from the appellant.

28 It is further argued that the disclosure statement made by the appellant was admissible to the extent it led to recovery of the weapon and, therefore, the contention regarding absence of independent witnesses at the time of recording of disclosure statement is inconsequential and the recovery effected pursuant thereto constitutes a strong incriminating circumstance against the appellant.

29 Learned State counsel also contends that the prosecution substantially complied with all mandatory procedural requirements during investigation and that no material illegality or procedural violation has been pointed out so as to cause prejudice to the appellant or vitiate the trial proceedings.

30 In response to the plea seeking reduction of sentence, State counsel submits that the sentence imposed by the Trial Court is already

lenient and proportionate considering the nature of the offence involving unlawful possession of firearm. It is further submitted that the appellant is involved in several other criminal cases and, therefore, does not deserve any indulgence or sympathy from this Court on the question of sentence. It is, thus, contended that the appeal being devoid of merit deserves dismissal and the judgment of conviction and order of sentence passed by the Trial Court warrant no interference by this Court.

31 I have heard the learned counsel appearing for the respective parties and have gone through the documents appended along with the present petition and also the certificate of imprisonment that has been filed by the State.

32 Before proceeding further in the matter, it is deemed apposite to refer to the judgment rendered by the trial court, relevant extract whereof are as under: -

“9. Referring to the evidence led by the prosecution, learned Public Prosecutor for the State has argued that except complaint PW4, all the witnesses have deposed in a consistent manner and proved the guilt of the accused persons beyond reasonable doubt for the commission of offence punishable under Sections 392/397 IPC read with section 34 of the Indian Penal Code and under section 25 of Arms Act against accused Mohit. It is further argued that the complainant PW4 Deepak has admitted the occurrence in question, although he has not identified the accused as the assailants who have looted his vehicle. PW2 Girish Kumar Draftsman has proved the scaled site plan Ex.P2 made on 21.4.2017, on the demarcation of ASI Narbir. Further PW1 C. Surrender who is attesting witness of the recovery of looted Innova vehicle has proved the recovery memo bearing his signature. Further Ct. Virender Kumar PW3 has proved the

disclosure statement of accused Sidharth and PW6 HC Kuldeep has proved the disclosure statement suffered by accused, Satish and Mohit and further stated that accused Mohit got recovered countrymade pistol which was taken into possession vide recovery memo Ex.P22 and accused Satish got recovered the documents like Registration certificate and insurance of looted Innova vehicle. Further PW5 Phool Singh, who is owner of the looted Innova vehicle has deposed that he took the vehicle on superdari vide order Ex.P16 and receipt Ex.P17. PW8 HC Sandeep Kumar has proved the sanctioned order issued by Sh. Sibash Kabiraj, IPS under section 25 of the Arms Act against accused Mohit @ Monu. Further PW10 SI Satish Kumar Armorer has found the recovered countrymade pistol from accused Mohit, in working condition. On this, learned PP has argued that prosecution has proved the guilt of accused beyond reasonable doubt and prayed that the accused may be convicted accordingly.

10. On the other hand, learned counsel for the accused have argued that the prosecution has failed to prove its case beyond reasonable doubt against the accused persons and they are entitled to acquittal.

xxx xxx xxx xxx xxx xxx xxx

14. Further learned counsel for accused Mohit @ Monu argued that alleged recovery of countrymade pistol is falsely implicated upon the accused. It is further argued that PW6 HC Kuldeep has deposed that four persons were present in the house of accused Mohit at the time of recovery of countrymade pistol, but no one was joined in the investigation and recovery proceedings. It is further argued that no DDR number of the said information was mentioned, so as to show that concerned police station at Delhi was informed about the said proceedings and it is further argued that PW8 HC Satish Kumar who is alleged to be witness of

the sanction orders Ex.P26, under Arms Act, has admitted in his cross examination that no case property was produced before the sanctioning authority. It is further argued that above admission shows that sanctioned order was given in routine manner and same is not valid sanction and accused Mohit is entitled to be acquitted on this ground alone. It is further admitted by prosecution witness that no public witness was joined in the entire proceedings and thus prayed that accused be acquitted accordingly.

15. So far as the occurrence dated 17.02.2017 is concerned, PW4 Deepak Kumar deposed that on 17.2.2017 he was working a driver on Innova vehicle No. UP-14-AT-4791 of Sarfo company. On that day, at about 11.50pm, after dropping the passengers by his Innova vehicle, when he reached Laxman Vihar railway road near Sector 5, Gurugram, four persons asked him to stop the vehicle and overpowered him. One of them sat on the driving seat and he cried for help and they run away alongwith the vehicle from the spot. On this he gave application to the police Ex.P7. However, complainant has specifically deposed that accused persons present in the court are not the persons who looted his vehicle. In the cross examination witness has further denied the contents of application Ex.P7. It is further admitted that Ex.P7 was not written by him and he has only signed the same. So, from the perusal of statement before the court, it has appeared that the complainant is not able to identify the person present before the court as accused, who had committed the occurrence in question and going by the evidence of the complainant himself, it can be said that it is not proved beyond reasonable doubt that the occurrence in question was committed by the accused person. In a criminal trial, to secure the conviction of an accused, it is incumbent upon the prosecution to prove the commission of offence was committed by the accused facing trial. The standard of proof

requires the prosecution to prove its case beyond reasonable doubt.

16. So far as the commission of offence is concerned, the occurrence dated 17.2.2017 has gone unchallenged and unrebutted. The question which requires adjudication is whether the occurrence dated 17.2.2017 was committed by the accused person. The prosecution has placed reliance upon the following evidence :-

- i) Statement of PW6 HC Kuldeep to the effect that accused Mohit @ Monu in pursuance of his disclosure statement got recovered a countrymade pistol and same was taken into possession vide recovery memo Ex.P22. Further accused Satish suffered disclosure statement and got recovered Registration certificate and Insurance policy of Innova vehicle which were taken into possession vide recovery memo Ex.P25.*
- ii) Statement of PW12 ASI Murari Lal to the effect that accused Sidharth suffered disclosure statement Ex.P4 admitting his Involvement in the present case and further demarcated the place of occurrence Ex.P5. Similarly accused Arun suffered disclosure statement Ex.P37 admitting his Involvement in the present case and further demarcated the place of occurrence Ex.P38.*
- iii) Recovery of Innova vehicle No. UP-14-AT-4791 which was standing in an un-attending condition and taken into possession vide memo Ex.P1, which is stated to be left by the accused Arun and Sidharth, who were injured while making the efforts to escape from the police.*

17. Learned Public Prosecutor has argued that the accused have suffered their disclosure statements voluntarily admitting the occurrence in question and in pursuance of the same they demarcated the place of occurrence and their involvement in the occurrence dated 17.02.2017 stands proved beyond reasonable doubt.

18. *The learned defence counsel has challenged the disclosure statement of accused Ex.P4, Ex.P20, Ex.P21 and Ex.P23 and demarcation memo Ex.P5, Ex.P24, Ex.P38 as unreliable and untrustworthy as no public witness was joined, when the same were recorded. He further argued that statements of official witnesses are not reliable and trustworthy as no independent witness was joined at the time of the disclosure statement and demarcation. It was further argued that there are material contradictions and discrepancies in the statements of the witnesses.*

19. *In the present case, the complainant has not supported the prosecution case as regards to the identity of the accused. Thus, the complainant/eye witness had clearly exonerated the accused facing trial qua the occurrence in question. Further, complainant never revealed the identity of the accused or their facial features in the statement. Thus, the prosecution has not led any evidence to show that the identity of the accused has been established and thus makes the story set up by the prosecution highly doubtful, particularly, when the complainant/eye witness has not identified the accused facing trial qua the offence under section 392/397 IPC.*

20. *On perusal of the evidence of the prosecution witness PW12 ASI Murari Lal who is stated to be witness of disclosure statement and recovery effected by the accused has deposed that no public witness was joined while recording the disclosure statement. Witness further admitted that no recovery was effected from the accused Sidharth and Arun. Learned Public Prosecutor has contended that vide Ex.P39 an application was moved for test identification parade of accused Mohit and Satish and vide Ex.P40 an application for test identification parade of accused Arun was moved, but accused vide Mark A and Mark A2, have refused for test identification parade, so adverse inference be drawn against the accused persons. On the other hand,*

*learned counsel for accused has argued that said documents are falsely prepared and moreover the complainant has not identified the accused persons and no adverse inference can be drawn against the accused persons. The contentions are having merits. It is a settled position of law that no adverse inference can be drawn against the accused persons for no test identification parade, as if the complainant himself had not identified the accused persons in the court and in the peculiar facts of the case, this proposition is applicable. I am further affirmed by the judgment of Hon`ble High Court in case **Narinder Singh versus State of Punjab-2000(1) RCR(Criminal) 434.***

xxx xxx xxx xxx xxx xxx xxx

22. Similarly PW1 who is also stated to be witness to recovery of said Innova vehicle, has admitted that no public witness was joined in the proceedings and that the concerned police station was not informed during their arrival and departure. The above discrepancies are material discrepancies and are against the case of prosecution in proving the guilt of accused Arun and Sidharth, and in view of the above discussion, they are entitled to benefit of doubt and accordingly, they are acquitted from the charges leveled against them.

23. It is important to mention here that PW4 Deepak complainant has not identified the accused persons who has committed the occurrence in question. In view of the above, no case under section 392/397IPC is proved against the accused persons.

24. This court has to further see the allegations against the accused Satish as the prosecution has alleged that documents, like Registration certificate and insurance of looted vehicle Innova bearing No. UP-14AT- 4791 were recovered from the possession of accused Satish vide recovery memo Ex.P25. It has further appeared that PW5

Phool Singh is stated to be owner of the Innova vehicle deposed that vehicle was recovered by police and has taken the same on superdari vide order Ex.P16 and receipt Ex.P17. Another witness complainant PW4 Deepak has stated that the vehicle was found in an abandoned condition. In the cross examination this witness has further deposed that in the vehicle which was recovered in an abandoned condition, no document was missing and police took in possession the vehicle alongwith the documents. The above evidence of the complainant shows that at the time of vehicle taken into possession, documents pertaining to the vehicle were only in the vehicle and were not missing, which further doubts the alleged recovery of RC and Insurance policy of the vehicle from the possession of accused Satish. Moreover, PW6 HC Kuldeep who although in the examination in chief has deposed that documents were recovered by the accused Satish, but in the cross examination surprisingly deposed that no recovery was effected in pursuance of disclosure statement of accused Satish. The above is a material contradiction which further puts a dent in the prosecution case qua the allegations of recovery of RC and Insurance policy of looted vehicle from the accused Satish. In view of the above, said recovery is not proved beyond reasonable doubt.

25. Further learned counsel for accused Mohit has argued that offence under section 25 of the Arms Act is not proved, as witness to the said sanction order has admitted that arms were not produced before the sanctioning authority and it shows that sanction was accorded in the routine manner and same is not valid and cannot be proved section 25 of the Arms Act. It is further argued that it is an admitted fact that no public witness was joined at the time of recovery and has prayed that accused Mohit be acquitted from the charges under section 25 of the Arms Act.

26. *The next contention of learned counsel for the accused is that no independent witness has been examined at the time of recovery of countrymade pistol inspite of availability. Further more in the peculiar facts, it has appeared that witnesses who were available at the house of accused Mohit at that time, were his family members and tenants, who were being related to the accused, cannot be expected to be a witness against him. The contentions are devoid of merits as non-examination of independent witness does not affect the prosecution case as it is settled law that the quality of the evidence and not the quantity that matters. This Court has also taken judicial notice of the fact that public persons are reluctant to appear as a witness before the Court especially in criminal case because of many obvious reasons. So merely because the independent witness was not joined at the time of recovery, does not in any manner cause dent in the case of the prosecution. In this context reference is made to the judgement in case of **Appa Bhai and another versus State of Gujarat AIR 1988 SC 696** wherein it has been laid down that the prosecution story cannot be thrown out, on the ground, that an independent witness had not been joined.*

27. *The present sanction order Ex.P26 clearly shows that the then Joint Commissioner of Police Sh. Sibash Kabiraj, IPS while according sanction applied his mind to the facts of the case. It has further mentioned in the sanction order that before according sanction, he has gone through the facts in the present FIR and have give thoughtful consideration on the documents available on the file. It is further stated that said countrymade pistol was examined by ASI Satish Kumar, Armorer, Police Lines, Gurugram and pistol was found in working condition.*

28. *The Arms Act or the Rules framed thereunder do not require that at the time of grant of sanction, the weapon should also be produced before the District Magistrate for*

*examination. It is personal satisfaction of District Magistrate and it is upto the District Magistrate to see as to what documents or objects are required for his personal satisfaction. Therefore, it cannot be said that as weapon was not produced before the Sanctioning Authority, therefore, sanction (Ex.PW4/A) is not a valid sanction. The authority in the case of **Randhir Singh @ Chini v. State of Haryana, 2012(4) RCR (Criminal) 770**, shows that it was a case under Section 307 read with Section 34 IPC and Section 25 of the Arms Act. The Co-ordinate Bench of Hon'ble High Court held that the grant of sanction is not a formality as held in **Sukh Lal and another v. State of M.P. 1998 Criminal Law Journal 1366**. However, in the present case, the sanction has been discussed and it has been held that it was not a mere formality. Therefore, mere non production of weapon before the Sanctioning Authority is no ground to hold that the Sanctioning Authority did not apply his mind to the facts of the case before granting the sanction. It has also been held in catena of judgments ,that the law does not mandate that the weapon must be produced before the District Magistrate at the time of grant of sanction. I am further affirmed by the judgment of Hon'ble High court of Punjab and Haryana in **Ramandeep Singh @ Raman vs State Of Punjab CRR No.4153 of 2015 (O&M), decided 28 January, 2016**.*

29. It has further appeared that PW10 ASI Satish Kumar Armorer has deposed in a consistent manner and has proved the report Ex.P31 stating that the countrymade pistol was found in working condition. Further it has appeared that although despite of lengthy cross examination, no material discrepancy and contradictions has brought on record by learned defence counsel for accused and recovery of country-made pistol has been proved from the possession of accused Mohit and accordingly, he is held guilty.

30. In view of the above discussion, it is clear that the prosecution has failed to prove its case against accused Satish @ Bhola, Sidharth @ Parveen @ Kalu, Arun and Mohit @ Monu under Section 392/ 397 read with section 34 of the Indian Penal Code, accordingly they are acquitted of the said charges.

31. However, the prosecution has succeeded in proving the guilt of accused Mohit @ Monu under Section 25 of Arms Act. Hence, accused Mohit @ Monu is held guilty for the offence punishable under Section 25 of Arms Act and convicted accordingly.”

33 At the very outset, it is pertinent to notice that the Trial Court has undertaken a detailed examination of the entire prosecution evidence and has analysed each contention raised on behalf of the accused persons. The Trial Court has rightly noticed that though complainant PW4 Deepak did not identify the accused persons as the assailants involved in the occurrence dated 17.02.2017 and, consequently, extended benefit of doubt to the accused persons qua offences under Sections 392 and 397 IPC, yet the Court carefully segregated the evidence relating to the independent offence under Section 25 of the Arms Act against appellant Mohit @ Monu.

34 This Court finds that the Trial Court has rightly appreciated the testimony of PW6 HC Kuldeep, who deposed regarding the disclosure statement suffered by appellant Mohit @ Monu and the consequent recovery of the country-made pistol pursuant thereto. The recovery memo Ex.P22 stood proved on record. The Trial Court has also rightly relied upon the testimony of PW10 ASI Satish Kumar, Armorer, who examined the recovered firearm and proved report Ex.P31, opining that the weapon

was in working condition. The testimony of the said witness remained unshaken despite lengthy cross-examination and no material contradiction could be elicited so as to discredit the prosecution case qua recovery of the firearm.

35 The challenge raised by the appellant regarding absence of independent witnesses at the time of recovery has also been rightly dealt with by the Trial Court. The Court correctly relied upon the settled proposition of law that non-association of independent witnesses is not by itself fatal to the prosecution case, particularly where the official witnesses are otherwise reliable and trustworthy. The Trial Court has rightly observed that public persons are often reluctant to join criminal proceedings and that testimony of official witnesses cannot be discarded merely on account of their official status. The reliance placed by the learned Trial Court upon the judgment in *Appa Bhai and another versus State of Gujarat, AIR 1988 SC 696*, is also justified in the facts and circumstances of the case.

36 This Court further finds no merit in the contention regarding invalid sanction under the Arms Act. The Trial Court has rightly examined sanction order Ex.P26 and correctly concluded that the sanctioning authority had applied its mind to the facts and material available on record before according sanction. The sanction order itself reflects conscious consideration of the relevant record including the report of the Armorer regarding the working condition of the recovered weapon. The Trial Court has also rightly held that neither the Arms Act nor the Rules framed thereunder mandate physical production of the weapon before the sanctioning authority as a condition precedent for valid sanction. The

reliance placed by the Trial Court in this regard upon the judgments in ***Randhir Singh @ Chini v. State of Haryana and Ramandeep Singh @ Raman v. State of Punjab*** is wholly apposite.

37 The Trial Court has also rightly appreciated that the discrepancies regarding non-association of local police or absence of Daily Diary entries were not of such magnitude as to demolish the otherwise cogent prosecution evidence regarding recovery of the weapon from the appellant. Minor procedural irregularities, unless shown to have caused prejudice or struck at the root of the prosecution case, cannot by themselves result in acquittal. A careful reading of the impugned judgment further reveals that the Trial Court has scrutinized the evidence with due caution and has not mechanically accepted the prosecution version in its entirety. Rather, wherever doubt arose, benefit thereof was consciously extended to the accused persons. The acquittal of the accused persons for offences under Sections 392 and 397 IPC itself demonstrates the objective and balanced manner in which the Trial Court appreciated the evidence on record. Thus, the conviction of appellant Mohit @ Monu under Section 25 of the Arms Act cannot be said to be the result of conjecture or surmise, but is founded upon independent and reliable evidence specifically attributable to him.

38 This Court, therefore, finds no infirmity in the conclusion arrived at by the Trial Court holding appellant Mohit @ Monu guilty for the offence punishable under Section 25 of the Arms Act. The sentence awarded also cannot be said to be excessive or disproportionate considering the nature of the offence and the recovery of an illegal firearm in working condition from the possession of the appellant.

39 Consequently, I am of the opinion that the Trial Court has rightly appreciated each and every aspect of the matter and has correctly convicted and sentenced the appellant. No ground warranting interference in the impugned judgment of conviction and order of sentence is made out.

40 In view of the above, the present appeal is dismissed. The judgment of conviction and order of sentence dated 07.06.2018 passed by the Additional Sessions Judge, Gurugram, is hereby affirmed.

41 Since the main case itself has been decided, CRM-35758-2018 seeking suspension of sentence and CRM-35757-2018 seeking stay of recovery of fine, during the pendency of the present appeal also stand disposed of accordingly.

42 A copy of this order be also sent to the High Court Legal Services Committee, for further necessary action.

May 14, 2026.
raj arora

(VINOD S. BHARDWAJ)
JUDGE

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