

District- Madhepura.

In the Court of the Principal District & Sessions Judge, Madhepura.

**Present :- Balram Dubey,**  
**Sessions Judge, Madhepura.**  
Madhepura, dated the 8<sup>th</sup> day of April, 2026.

Criminal Appeal No. 09 of 2023

C.I.S. No. 09 of 2023

1. Sudish Sharma @ Kari Sharma s/o Brahmadeo Sharma,  
Resident of Village- Sinduari, Bhanwara Tola, P.S. Gwalpara, District-  
Madhepura. .... Appellant.

VERSUS

State of Bihar

..... Respondent .

(This criminal appeal arises against the Judgment of conviction and order of sentence dated 27.02.2023 passed by Sri Yogendra Kumar Shukla, Learned J.M., 1<sup>st</sup> Class, Uda-Kisunganj in G.R. Case No. 1605/2010 u/s 25 (1-b)a & 26 (1) of the Arms Act).

For the Appellant : - Sri Pankaj Kumar, Advocate (Amicus Curiae).  
For the Respondent : - Sri Bibeka Kumar Singh, Learned P.P.

J U D G M E N T

(1) The instant Criminal appeal has been filed against the judgment of conviction and order of sentence dated 27.02.2023 passed by Sri Yogendra Kumar Shukla, Learned J.M., 1<sup>st</sup> Class, Uda-Kishunganj in G.R. Case No. 1605 of 2010 by which the Learned Trial Court found guilty and convicted the appellant u/s. 25 (1-b)a & 26 (i) of the Arms Act and sentenced him to go under rigorous imprisonment for three years and to pay a fine of Rs. 3,000/- for the offence punishable u/s. 25 (1-b)a of the Arms Act and in default of payment of fine the convict was further directed to go under simple imprisonment for one month. The appellant/convict was further sentenced to go under rigorous imprisonment for three years and to pay a fine of Rs. 3,000/- for the offence punishable u/s. 26 (i) of the Arms Act and in case of default of payment of fine the convict was further sentenced to go under simple imprisonment for one month. The Learned Trial Court has further ordered that both the sentences shall run concurrently and the period of sentence shall be set off from the period of detention already undergone.

(2) The case of the prosecution, in short, is that on 08.10.2010 at about 14:30 hours the informant Lalit Mohan Singh, S.H.O., Gwalpara Police Station along with other police personnel on secret information when they reached

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at Sinduari Bhawra Tola at 15:45 hours then seeing the police personnel the accused Sudish Sharma @ Kari Sharma started fleeing away, he was chased by police party but he succeeded in hiding himself in the village then following the rules search was made in the house of the accused in presence two independent witnesses and on search a country-made pistol was recovered from his room kept under the pillow on his bed. Accordingly, seizure list was prepared in presence of two independent witnesses who put their signature over the same.

(3) On the basis of above self-written report of the informant Gwalpara P.S. Case No. 29 of 2010 dated 08.10.2010 u/s 25 (1-b)a & 26 of the Arms Act was registered and after investigation the Investigating Officer of the case submitted charge-sheet against the accused/appellant for the offence u/s 25 (1-b)a & 26 of the Arms Act and thereafter on the basis of charge-sheet and the materials available on the case diary the learned C.J.M., Madhepura took cognizance for the offence u/s. 25 (1-b)a & 26 of the Arms Act against the accused/appellant on 24.12.2010 and charge was framed u/s. 25 (1-b)a & 26 of the Arms Act against the accused/appellant on 28.03.2011 and in due course Sri Yogendra Kumar Shukla, the Learned J.M., 1<sup>st</sup> Class, Uda-Kishunganj passed the judgment of conviction and order of sentence on 27.02.2023 convicting the accused/appellant for the offence punishable u/s. 25 (1-b)a & 26 (i) of the Arms Act and sentenced him to go under rigorous imprisonment for three years and to pay a fine of Rs. 3,000/- for the offence punishable u/s. 25 (1-b)a of the Arms Act and in default of payment of fine the convict was further directed to go under simple imprisonment for one month. The appellant/convict was further sentenced to go under rigorous imprisonment for three years and to pay a fine of Rs. 3,000/- for the offence punishable u/s. 26 (i) of the Arms Act and in case of default of payment of fine the convict was further sentenced to go under simple imprisonment for one month. The Learned Trial Court has further ordered that both the sentences shall run concurrently and the period of sentence shall be set off from the period of detention already undergone.

(4) Being aggrieved by and dis-satisfied with the judgment of conviction and order of sentence dated 27.02.2023 passed by Sri Yogendra Kumar Shukla, Learned J.M., 1<sup>st</sup> Class, Uda-Kishunganj in Gwalpara P.S. Case No. 29/2010, G.R. Case No. 1605/2010 the appellant/accused person has preferred this criminal appeal on the following grounds:-

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(5) (a) That the seizure-list witnesses have not supported the seizure of any arms or cartridge from possession of the appellant.

(b) That the except the seizure-list witnesses all other witnesses are police personnel.

(c) That the said seizure-list witnesses have not been produced for recording their evidence.

(d) That Learned Lower Court has not considered that I.O. of the case has also not been examined.

(e) That allegation u/s. 26 (1) of the Arms Act is not applicable in this case.

(f) That there is contradiction in the statement of the witnesses which has been ignored by the Learned Trial Court.

(g) That the police has falsely implicated the accused/appellant in the case out of conspiracy and the whole prosecution case is doubtful.

(h) That the impugned judgment is not according to law.

**FINDINGS**

(6) Heard both the parties and perused the case record and evidence of witnesses minutely.

(7) Prosecution has examined as many as total five witnesses in its oral evidence, which are as follows:-

- P.W. 1- Balbir Singh (Police Witness),
- P.W. 2- Girdhari Singh, (Police Witness),
- P.W. 3- Raj Kishore Mandal, (Police Witness)
- P.W. 4- Ram Naresh Mandal, (Police Witness)
- P.W. 5- Lalit Mohan Singh, S.I. (informant).

(8) In addition to the aforesaid oral evidences, the prosecution has also adduced following documentary and material evidence to prove its case:-

- Ext- 1- Signature of informant ,
- Ext. 2- Report of Ballistic Expert,
- Ext. 3- Fardbeyan of the informant,
- Ext. 4- Seizure-list,
- Ext. 3- Sanction Report.
- Material Ext. I- Country-made pistol.

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(9) For proper adjudication of the instant criminal appeal, the testimonies of the witnesses are required to be re-evaluated.

Statement of Witnesses

(10) P.W. 1- Balbir Singh (SAF) has narrated the prosecution case as per the F.I.R. during his evidence. He was one of the members of the raiding party.

(11) P.W. 2- Girdhari Singh (SAF), who was also one of the members of the raiding party, has narrated the prosecution case as per the F.I.R. during his evidence.

(12) P.W. 3- Raj Kishore Mandal, A.S.I., who was also one of the members of the raiding party, has narrated the prosecution case as per the F.I.R. during his evidence. He has identified the signature of the S.H.O. Lalit Mohan Singh over the formal F.I.R. which has been marked as Ext. 1. He has produced the seized pistol before the Court in sealed condition upon which P.S. Case No. 29/10 is mentioned and stated that this is the pistol which has been recovered from under the bed of the accused and on his identification the seized pistol has been marked as Material Ext. I.

(13) P.W. 4- Ram Naresh Singh (Sergeant Major), has stated in his examination-in-chief that the seized country-made pistol was produced before him for test and after test he found the pistol in working condition and he identified his writing and signature over the test report which has been marked as Ext. 2. During cross-examination he has stated that he has twice got training for testing the arms and ammunition from the Forensic Laboratory, Patna.

(14) P.W. 5- Lalit Mohan Singh (S.H.O. cum informant), who was also one of the members of the raiding party, has narrated the prosecution case as per the F.I.R. during his evidence. He has stated that the seizure-list was prepared in presence of two independent witnesses by the A.S.I., R.R.K. Mandal. He has identified his signature on the seizure-list which has been marked as Ext. 4. He has also identified his writing and signature over the fardbeyan which has been marked as Ext. 3. During cross-examination he has stated that he has not seen the house of the accused prior to this occurrence. He has further stated in his cross-examination that he has put his signature and marked the case number on the seized pistol.

(15) Learned Counsel appearing on behalf of the appellant submitted that the Learned Magistrate has completely ignored and overshadowed the facts and

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has not applied his judicial mind by convicting the appellant despite of appreciating the fact that all the prosecution witnesses were police officials and there was not a single independent witness to the occurrence while the occurrence allegedly took place at 15:45 hours during the day and it is ironical that no independent witnesses could be found by police. Even the seizure-list witnesses have not been examined for recording their evidence. Learned Court has also not considered the contradiction in the evidence of the witnesses.

(16) On behalf of the Respondent, the State of Bihar Sri Bibeka Kumar Singh, learned P.P. appeared and submitted that in this case five witnesses have been examined by the prosecution before the Learned Trial Court who all have supported the case. The prosecution has proved this case beyond the shadow of all reasonable doubts and there is no merit in this appeal, hence this criminal appeal should be dismissed.

**Evaluation by the Appellate Court:-**

(17) Now the question for consideration before this appellate court is that:-

(a) Whether the prosecution was successful to prove its case beyond the shadow of all reasonable doubts before the Learned Magistrate ?

(b) Whether the judgment of conviction and order of sentence passed by the Learned Magistrate fulfill all the legal aspects ?

(18) From deep perusal and analysis of the evidence of all the five prosecution witnesses it is clear that P.W. 5- Lalit Mohan Singh, who was the then S.H.O. of Chausa P.S. and informant of this case also, has stated in his evidence that one country-made pistol has been recovered from the house of the accused/appellant Sudish Sharma @ Kari Sharma under his bed in presence of the witnesses. This witness has completely supported and corroborated the fact of the F.I.R. and proved the recovery of the above country-made pistol from the house of the accused/appellant and this witness has been cross-examined by the defence but the defence has not given any suggestion or has not challenged that the country-made pistol had been recovered by this witness from the house of the accused/appellant under his bed, so evidence of the P.W. 5 is more valuable and

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trustworthy and on the basis of evidence of this witness only the accused/appellant can be held guilty. P.W. 4 has tested the seized country-made pistol who found the same in active mode and given report as per his findings. He has proved the Material exhibit No. 1 the seized country-made pistol but the defence has not given any suggestion or has not challenged the evidence of this witness upon which any doubt may be created. P.W. 1 is also an eye witness of the occurrence and was also the member of the raiding party along with others and has categorically corroborated the evidence of the P.W. 5- Lalit Mohan Singh, informant of the case in his entire evidence and this witness has also not been given any suggestion or any challenge by the defence on the basis of which any doubt may be created upon his evidence. P.W. 2 is also an eye witness of the occurrence and was also the member of the raiding party along with others and has categorically corroborated the evidence of the P.W. 5- Lalit Mohan Singh, informant of the case in his entire evidence and this witness has also not been given any suggestion or any challenge by the defence on the basis of which any doubt may be created upon his evidence. P.W. 3 is also an eye witness of the occurrence and was also the member of the raiding party along with others and has categorically corroborated the evidence of the P.W. 5- Lalit Mohan Singh, informant of the case in his entire evidence and this witness has also not been given any suggestion or any challenge by the defence on the basis of which any doubt may be created upon his evidence. All the witnesses have categorically supported the fact of recovery of the country-made pistol from under the bed of the house of the accused/appellant.

(19) Accordingly, from the above discussions and analyzing all the circumstances of the case, I came to conclusion that the prosecution has been able to prove its case beyond the shadow of all reasonable doubts and the same has been appreciated by the Learned Trial Court and held the accused Sudish Sharma @ Kari Sharma guilty of the offence punishable u/s. 25 (1-b)a & 26 (i) of the Arms Act. Hence I find no basis to interfere in the order of holding the accused guilty of the above offence by the Learned Trial Court.

(20) Thus, having gone through all the facts, circumstances and circumspect so attended I come to an irresistible conclusion to hold and find that the impugned judgment and order of sentence does not suffer from any sort of illegality and irregularity. So far as length of sentence is concerned, the Learned

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Trial Court has already taken lenient view in awarding the sentence. So, unimpeachably, I further find and hold that the impugned judgment and order of sentence does not warrant any interference by this appellate court.

**ORDER**

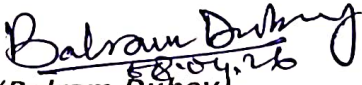
(21) Accordingly, in view of the above discussion, the instant Criminal Appeal stands dismissed.

Office is directed to send a copy of this judgment along with the Trial Court's case record to the concerned Court at once.

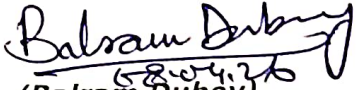
The prescribed fee of Learned Amicus Curiae be paid to him by the District Legal Services Authority, Madhepura and for the said purpose, a copy of first and last page of this judgment be sent to the Secretary, District Legal Services Authority, Madhepura.

The file of this appeal be deposited to the D.R.R., Madhepura after necessary compliance, if any.

Dictated & Corrected by me :-

  
(Balram Dubey)  
Sessions Judge,  
Madhepura.  
Madhepura, dated the 8<sup>th</sup>  
day of April, 2026



  
(Balram Dubey)  
Sessions Judge,  
Madhepura.  
Madhepura, dated the 8<sup>th</sup>  
day of April, 2026