

In the Court of Seema-I, Judicial Magistrate Ist Class, Palwal.

HRPL030032482023



Presented on : 21-04-2023
Registered on : 21-04-2023
Decided on : 14-07-2026
Duration : 3 years, 2 months, 23 days

State	Versus	Aditya son of Sh. Bhagat Singh, resident of Kithwadi, P.S. Chandhut, Palwal.
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.....Accused.

F.I.R. No. 125 dated 24.02.2023
Under Section: 25 (54) of Arms Act, 1959.
Police Station: City, Palwal.

Present: Learned Assistant Public Prosecutor for the State.
Accused Aditya @ Sita Ram on bail with Shri Surender
Dagar, Advocate.

JUDGMENT:

Accused above named is facing trial for the alleged
commission of offence punishable under Section 25 (54) of the Arms Act,
1959 in case F.I.R. No. 125 dated 24.02.2023 of Police Station-City
District Palwal.

2. The prosecution story, in brief, is that On 24.02.2023, ASI Meharchand along with Sandeep, Constable Raj Kumar and driver Devi Dayal was present at Minar Gate, Palwal. There, he received secret information that Aditya @ Sitaram, resident of Kitwadi, District Palwal, was carrying an illegal country-made pistol and was standing near the tractor market, Rasulpur Road, Palwal. The police party reached the spot and apprehended the accused. On his search, one desi katta (country-made pistol) was recovered from the right pocket of his worn pants. The weapon was taken into police possession. Length of Barrel was 17 cm, length of Body was 10 cm and length of Butt was 10 cm. Country made pistol was sealed in a parcel with seal of AS and further seal was handed over to Constable Sandeep. As the accused could not produce any licence for possessing the firearm, an FIR was registered under Sections 25/54/59-A Arms Act. Investigation was carried out by HC Ashok. The accused was arrested, produced before the Court, and was remanded to judicial custody. After completion of investigation and obtaining the necessary sanction, the police prepared the challan under Section 173 CrPC and presented it before the Court for trial.

3. Copies of documents of challan, as contemplated under Section 207 Cr.P.C. was supplied to the accused, free of costs. Accused was charge-sheeted for the commission of offence punishable under Section 25 (54) of the Arms Act, 1959 to which he pleaded not guilty and claimed trial.

4. In order to establish its case, the prosecution has examined **Gangaram Reader/DM Palwal** as (PW1), **Ct. Joginder** as (PW2), **HC Sandeep** as (PW3), **ASI Ashok Kumar** as (PW4), **ASI Meharchand** as (PW5). Thereafter, learned APP for the State was given up PWs HC Mahender, Inspector/SHO Reenu Devi & Ct. Raj Kumar being unnecessary. Prosecution evidence closed by court orders on dated 06.06.2026.

5. In the statement recorded under Section 313 Cr.P.C., the accused denied all the allegations leveled against him and pleaded his innocence but did not lead any defence evidence.

6. Learned APP for the State has argued that prosecution has proved its case against the accused and accused be convicted according to provision of law.

7. On the other hand, learned defence counsel has argued that total story of the prosecution is based upon surmises and conjectures. He has argued that the prosecution has failed to establish the guilt of the accused. Hence, the accused is entitled to be acquitted.

8. I have heard learned APP for the State and learned defence counsel and have perused the case file very carefully.

9. After hearing rival contentions of learned APP for the State and learned defence counsel for accused and after appreciating the entire evidence on record, the findings of court are as under:-

10. Admittedly, no independent witness was joined by the investigating officer at the time of arrest of the accused and recovery. Prosecution witnesses have failed to give any plausible and satisfactory explanation for non joining of independent witnesses. No notice was served upon the public persons to join the investigation. Hence, it appears that no reasonable efforts were made by the police party to join the members of public as independent witnesses. It is settled law that statement of official witnesses should not be relied upon when independent witnesses despite their availability are not joined in investigation. Hence, on this ground, accused is liable to be acquitted.

Reliance in this regard may be placed on case law titled ***Sanspal Singh Vs. State of Delhi 1998(2) SCC 371.***

11. Further, PW2 constable Joginder conducted technical examination of pistol. In his cross examination has stated that he did not test fired the pistol. ***The Hon'ble Punjab & Haryana High Court in case of Bhuptej Pal Singh Vs State of Punjab CRA-A-1633-SB-2002 (O&M). D/d.30.7.2013 has held:-***

“No bullet was test fired by the Armourer – Therefore, prosecution failed to prove that revolver and cartridges were in working condition”.

In another case Hon'ble Madhya Pradesh High Court in case of Dadu alias Indraka Vs State of M.P Cr.A.No.322 of 1990. D/d 21.8.2002:-

“There is no iota of evidence to give finding that the Katta seized from the possession of the appellant was in working condition or that the cartridge seized from his possession was alive. There is no evidence of an expert or an Armourer to show that the pistol was in working condition or the cartridge was alive. It is true that the Police Officer, trained to handle the weapon, can find out as to whether the weapon is in working condition even without test firing but in this case none of the police Officer says that the weapon seized was in working condition and the cartridge was alive. Therefore, in the absence of evidence that the pistol was in working condition and cartridge was alive, the conviction of the appellant for offence punishable under Section 25 of Arms Act can not be sustained”.

Hence, in view of above there is no evidence on record to prove that the pistols recovered was in working condition.

13. Furthermore, in view of the law laid down in the ruling **State of Punjab Versus Butta Singh 1978 CLR 152**, the seal should have been entrusted to an independent person and not to an interested person. As the seal was handed over to a police officials i.e. Constable Sandeep, the possibility of tampering with case property cannot be ruled out and it cannot be said with certainty that the case property i.e. pistol was the same which was alleged to have been recovered from the accused

14. It is a cardinal principle of criminal jurisprudence that an accused is presumed to be innocent and, therefore , the burden lies on the prosecution to prove the guilt of the accused beyond reasonable doubts. The prosecution is under a legal obligation to prove each and every ingredient of the offence beyond any doubt, unless otherwise provided by the statue. The general burden never shifts and it always rests on the prosecution. At the conclusion of the trial, the prosecution can succeed only on discharging this burden of proving of case against the accused. Strongest of suspicion does not constitute the proof required. The principle is so well settled that it hardly requires support of any judicial pronouncement. Likewise, a criminal charge has to be proved beyond reasonable doubt by adducing sufficient substantive evidence as it is the

requirement of criminal justice and accused can not be convicted on the basis of presumptions and speculative assumptions in the absence of any substantive evidence.

15. In view of the discussion made above, this court is of considered view that prosecution has failed to prove charges levelled against the accused. Hence, the accused Aditya is acquitted of the charges levelled against him. The personal bonds of the accused person for Rs. 50,000/- as per the provisions of section 437A of Cr.P.C. to appear before the higher court as and when such court issues notice in respect of any appeal or petition filed against the judgment of this court and such bail bonds shall be in force for six months. File be consigned to record room after due compliance.

Pronounced.

Dated: 14.07.2026

Note: All the seven pages have been signed by me.

(Seema-I)

Judicial Magistrate Ist Class,
Palwal

(Seema-I)

Judicial Magistrate Ist Class,
Palwal

UID No.HR-0403

Neetu Steno Gr-II