

**IN THE COURT OF MS. MANSI MALIK  
ADDITIONAL CHIEF JUDICIAL MAGISTRATE-02 (CENTRAL  
DISTRICT), TIS HAZARI COURTS, NEW DELHI**



CNR No. DLCT020000182006

FIR No. 87/2006

PS: Gulabi Bagh

State Vs. Chaman Lal @ Sunil

**JUDGMENT**

|     |                     |                                                                                            |
|-----|---------------------|--------------------------------------------------------------------------------------------|
| (a) | CIS No.             | 286407/2016                                                                                |
| (b) | Date of offence     | 18.05.2006                                                                                 |
| (c) | Complainant         | Ct. Dinesh Kumar                                                                           |
| (d) | Accused             | Chaman Lal @ Sunil<br>S/o Rajinder Kumar                                                   |
| (e) | Offence             | Section 25 of Arms Act and<br>174A IPC                                                     |
| (f) | Plea of accused     | Pleaded Not guilty                                                                         |
| (g) | Final Order         | Acquittal for the offence u/s 25<br>Arms Act<br>Conviction for the offence u/s<br>174A IPC |
| (h) | Date of Institution | 30.05.2006                                                                                 |

|     |                                 |            |
|-----|---------------------------------|------------|
| (i) | Date when judgment was reserved | 25.05.2026 |
| (j) | Date of judgment                | 02.07.2026 |

### **BRIEF FACTS**

1. The story of the prosecution is that on 18.05.2006 at about 10:30 PM, at road no. 40, near Metro Station, Pratap Nagar, within the jurisdiction of PS Gulabi Bagh, accused Chaman Lal @ Sunil was found in the possession of one button operated knife having blade length of 11.04 cm and blade width of 2.8 cm in contravention of the notification issued by Delhi Admn. without any license and is thereby alleged to have committed offence punishable under Section 25 Arms Act and within the cognizance of this Court.

2. On the basis of the chargesheet, charge of offence u/s 25 Arms Act against accused was framed and the charge was duly explained to him in vernacular to which he pleaded not guilty and claimed trial on 30.08.2006. Thus, the matter was put to trial. During the trial of the present case, accused was declared as absconder vide order dated 03.09.2012. Thereafter, accused was arrested and produced before the Court and supplementary charge-sheet u/s 174A IPC was filed by the police officials. Thereafter, additional charge u/s 174A IPC was framed against the accused on 26.02.2026 and the matter was again put to trial.

### APPRECIATION OF EVIDENCE

3. In order to prove the above said allegations against the accused, the prosecution examined six witnesses in total.

4. PW-1/Retd. ASI Ram Kishan deposed that on 18.05.2006, he was on patrolling duty in the area of PS Gulabi Bagh alongwith Ct. Dinesh. PW-1 further deposed that while on patrolling, Ct. Dinesh reached at Pole no. 40, Gulabi Bagh near bus stand as he had received an information from secret informer about the presence of accused alongwith button actuated knife. PW-1 further deposed that thereafter Ct. Dinesh went at the abovesaid place and accused was found sitting near Pole no. 40 and he apprehended the said accused and on enquiry his name was disclosed as Chaman Lal S/o Rajender Kumar. PW-1 further deposed that on cursory search of accused he was carrying button actuated knife in his right pocket of pants. PW-1 further deposed that in the meantime, he also came there and it was around 10:30 PM and Ct. Dinesh handed over the custody of accused and case property to him. PW-1 further deposed that he recorded the statement of Ct. Dinesh i.e. Ex.PW1/A and unfolded the knife and prepared its sketch on white paper i.e. Ex.PW1/B. PW-1 further deposed that thereafter said knife was folded and it was kept in pulanda which was sealed with the seal of RK and the detailed description of knife was mentioned in the sketch memo. PW-1 further deposed that the said pullanda was seized vide seizure memo i.e. Ex.PW1/C and that thereafter, he prepared rukka and he got present FIR registered through Ct. Dinesh. PW-1 further deposed that

after registration of FIR, he prepared site plan of the spot at the instance of Ct. Dinesh i.e. Ex.PW1/D and after interrogation, accused Chaman Lal was arrested vide arrest memo i.e. Ex.PW1/E. PW-1 further deposed that the personal search of accused was also conducted vide personal search memo i.e. Ex.PW1/F and after medical examination of accused, he was kept in lockup. PW-1 further deposed that the case property was deposited in malkhana and he recorded statements of witnesses u/s 161 Cr.P.C. PW-1 correctly identified the accused before the Court. During the testimony of PW-1, report was produced on behalf of District Nazir that the case property has already been disposed off as per detail mentioned in the report Ex.PW2/A. PW-1 was duly cross-examined by counsel for the accused.

5. PW-2/Retd. SI Dinesh deposed that on 18.05.2006 he was posted as a Ct. at PS: Gulabi Bagh and on that day, he was on patrolling duty in the area of PS Gulabi Bagh and he reached at Pole no. 40, Gulabi Bagh near bus stand. PW-2 further deposed that he had received an information from secret informer about the presence of accused alongwith button actuated knife and thereafter he went at the abovesaid place and accused was found sitting near pole no. 40. PW-2 further deposed that he apprehended said accused and on enquiry his name was disclosed as Chaman Lal S/o Rajender Kumar. PW-2 further deposed that on cursory search of accused he was carrying button actuated knife in his right pocket of pants. PW-2 further deposed that in the meantime, IO of the present case ASI Ramkishan also came there and it was around 10:30 PM. PW-2 further deposed that he handed over the custody of accused and case property to him. PW-2 further deposed that IO recorded his

statement Ex.PW1/A and IO unfolded the knife and prepared its sketch on white paper i.e. Ex.PW1/B. PW-2 further deposed that thereafter the said knife was folded and it was kept in pulanda which was sealed with the seal of RK and the detailed description of knife has been mentioned in the sketch memo. PW-2 further deposed that the said pullanda was seized vide seizure memo Ex.PW1/C and thereafter, IO prepared rukka and he got the present FIR registered. He further deposed that after the registration of FIR, IO prepared site plan of the spot at his stance i.e. Ex.PW1/D. PW-2 further deposed that after interrogation, accused Chaman Lal was arrested vide arrest memo i.e. Ex.PW1/E and the personal search of accused was also conducted vide personal search memo i.e. Ex.PW1/F and after medical examination of accused he was kept in lockup. PW-2 further deposed that the case property was deposited in malkhana and IO recorded his statement u/s 161 Cr.P.C. PW-2 correctly identified the accused in the court. During the testimony of PW-2, report was produced on behalf of District Nazir that the case property has already been disposed off as per detail mentioned in the report Ex.PW2/A. PW-2 was duly cross-examined by counsel for the accused.

6. PW-3/ASI Mahender deposed that on 01.11.2022, he was posted at ER-1 Crime Branch, Delhi as an ASI and on that day, a secret informer came at his office situated at Old Kondli, Delhi and apprised that one person who was declared PO namely Chaman Lal was residing at Johripur, Delhi and in the evening at about 5:30/6:00 PM he will come to Kanti Nagar, Red Light near Police Booth, Service Road, Delhi. PW-3 further deposed that the said information was shared by HC Amit to him

and thereafter, the same was conveyed to Inspector Satish Rana who instructed to conduct raid. PW-3 further deposed that thereafter, he alongwith other police officials went to aforesaid place at about 4:30 PM and were waiting for accused Chaman Lal and at about 7:00 PM accused Chaman Lal came there alone and he was apprehended by him and other police officials since he was already declared PO in the present case. PW-3 further deposed that thereafter accused was arrested in present case vide arrest memo i.e. Ex.PW3/A and the personal search of accused was also conducted vide personal search memo i.e. Ex.PW3/B. PW-3 further deposed that thereafter accused was produced before the court vide kalandra u/s 41.1(c) i.e. Ex.PW3/C and the accused was sent in JC by order of court. PW-3 correctly identified the accused in the Court and was duly cross-examined by counsel for the accused.

7. PW-4/ASI Upender deposed that on 01.11.2022, he was posted at ASI at Crime Branch, Delhi as an ASI and on that day, a secret informer came at his office situated at Old Kondli, Delhi and apprised that one person who was declared PO namely Chaman Lal was residing at Johripur, Delhi and today in the evening at about 5:30/6:00 PM he will come to Kanti Nagar, Red Light near Police Booth, Service Road, Delhi. PW-4 further deposed that the said information was shared by HC Amit to him and thereafter, the same was conveyed to Inspector Satish Rana who instructed to conduct raid. PW-4 further deposed that thereafter, he alongwith other police officials namely ASI Mahender, HC Amit, ASI Vinod, Ct. Vikrant, Ct. Vikas went to aforesaid place at about 4:30 PM and were waiting for accused Chaman Lal and at about 7:00 PM accused Chaman Lal came there alone and he was apprehended by him and other

police officials since he was already declared PO in the present case. PW-4 further deposed that thereafter accused was arrested in present case vide arrest memo i.e. Ex.PW3/A and the personal search of accused was also conducted vide personal search memo i.e. Ex.PW3/B. PW-4 further deposed that thereafter accused was produced before the court vide kalandra u/s 41.1(c) i.e. Ex.PW3/C and the accused was sent in JC by order of court. PW-4 further deposed that IO recorded his statement u/s 161 Cr.P.C. PW-4 correctly identified the accused in the Court and was duly cross-examined by counsel for the accused.

8. PW-5/Retd. SI Kavarjeet Singh deposed that on 04.05.2012, he was posted at PS Gulabi Bagh as HC and on that day, he went to execute the process u/s 82 Cr.P.C against accused Chamanlal @ Sunil at his address B-127, gali no.21, Vijay Park, Delhi. PW-5 further deposed that at the abovesaid house, he met the owner of the said house, Bhule Singh and who stated that accused Chamanlal @ Sunil was his tenant and he left the premises about 8-9 years ago and his present whereabouts were not known to him. PW-5 further deposed that he recorded his statement and prepared his report i.e. Ex.CW1/A and thereafter, on 03.09.2012, his statement as process server was recorded before the Ld. MM. PW-5 was duly cross-examined by counsel for the accused.

9. PW-6/ASI Vinod Kumar deposed that during the trial of present case accused Chaman Lal @ Sunil was declared PO on 03.09.2012 and on 01.11.2022 he was arrested as PO by the police officials of Crime Branch vide kalandra u/s 41(1)(c)Cr.P.C vide GD No.25A. PW-6 further deposed that later on at the direction of court, he prepared supplementary

chargesheet of accused Chamanlal for offence u/s 174A IPC and filed the same before the court. PW-6 correctly identified the accused in the Court. PW-6 was not cross-examined by counsel for the accused despite opportunity given.

10. Vide separate statement recorded under Section 294 Cr.P.C., accused admitted the FIR No. 87/2006 dated 19.05.2006 PS Gulabi Bagh which is Ex. A-1 and DAD Notification which is Ex. A-2. Accordingly, witness mentioned at serial no. 4 in the list of witnesses was dropped vide order dated 27.04.2026.

11. As PW/HC Shamsheer had expired, he was dropped from the list of witnesses on 05.05.2026. As all material witnesses were examined by the Prosecution, PE was closed vide order dated 27.04.2026. Statement of the accused was recorded on 07.05.2026 wherein he stated that he is innocent and has been falsely implicated in the present case. The accused opted not to lead any DE and thereafter, the matter was listed for final arguments. Final arguments were heard on 25.05.2026.

12. It is argued by Ld. APP for the state that from the ocular and documentary evidence on record, prosecution has proved beyond reasonable doubt that the accused was found in possession of button actuated knife without permit and that he did not deliberately appear before the court despite issuance of proclamation against him. It is therefore submitted that the accused be convicted of the offences charged.



13. Per contra, it is argued by the Ld. counsel for the accused that the accused is completely innocent and recovery of case property has been falsely implanted upon him. It is further submitted by Ld. counsel that non-joinder of public witness despite availability cast shadow of doubt on prosecution story. It is further argued by Ld. counsel for the accused that tampering with the contents of the sealed parcel cannot be ruled out as seal was not handed to the independent witness. It is also contended that there are various contradictions in the testimonies of the prosecution witnesses, which falsifies the story of the prosecution. At the end, it is submitted that the prosecution has miserably failed to prove its case beyond reasonable doubt and therefore, the accused is liable to be acquitted of the alleged offence.

14. I have heard the rival submissions and have also carefully gone through the entire material available on record and evidence led on behalf of the prosecution. My findings on the point for determination and brief reasons for the same are now being discussed in following paragraphs.

15. In present case, the prosecution was duty bound to prove the possession of the buttondar knife with the accused. Same is sought to be proved by the recovery memo and testimony of the witnesses. But the manner of conducting inquiry, seizure and search etc. on the spot at the time of arrest of the accused and alleged recovery of the case property in this case, makes the prosecution version highly doubtful. Incident is stated to have happened at about 10:30 PM on 18.05.2006 at Road No. 40, Near Metro Station, Pratap Nagar, Delhi and it is evident from the

testimony of PW-1 and PW-2 that the accused was apprehended alongwith the alleged unauthorized buttondar knife at a public place but still no public independent person was cited as a witness in this case.

16. The aforesaid observations have been deduced from the testimony of PW-1 and PW-2. Both PW-1 and PW-2 have stated in their testimonies that the place where the accused was apprehended was a public place. PW-2 further stated that no notice was served upon the passersby who refused to join the investigation by PW-1/IO. PW-1/IO/ASI Ram Kishan has also stated that he did not serve notice to any public witness who refused to join the investigation. The said explanation given by PW-1 cannot be accepted by the court since, the IO was under obligation to issue notice in writing to the public persons, who refused to join the police investigation particularly in the background when the accused has already been apprehended by the police and there was no apprehension that accused might escape. Moreover, the IO has not even placed on record the names of the passerby who were asked to join the investigation and neither have any reasons been mentioned by the IO for refusal by the people who were approached to join the investigation. In the facts and circumstances of the case, this court finds that police has not made any sincere effort to join independent public witnesses during investigation. In this regard reliance is being placed on the following judgments:-

In a case law reported as “*Anoop V/s State*”, 1992 (2) C.C. Cases 314 (HC), Hon'ble High Court of Delhi has observed as under:

*“18. It is repeatedly laid down by this Court that in such cases it should be shown by the police that sincere efforts have been made to*

*join independent witnesses. In the present case, it is evident that no such sincere efforts have been made, particularly when we find that shops were open and one or two shop-keepers could have been persuaded to join the raiding party to witness the recovery being made from the appellant. In case any of the shopkeepers had declined to join the raiding party, the police could have later on taken legal action against such shopkeepers because they could not have escaped the rigours of law while declining to perform their legal duty to assist the police in investigation as a citizen, which is an offence under the IPC”.*

In a case law reported as “***Roop Chand V/s The State of Haryana***”, 1999 (1) C.L.R 69, the Hon'ble Punjab & Haryana High Court held as under:-

*“3. I have heard the learned counsel for the parties and gone through the evidence with their help. The recovery of illicit liquor was effected from the possession of the petitioner during noon time and it is in the evidence of the prosecution witnesses that some witnesses from the public were available and they were asked to join the investigation but they refused to do so on the ground that their joining will result into enmity between them and the petitioner.*

*4. It is well settled principle of the law that the Investigation Agency should join independent witnesses at the time of recovery of contraband articles, if they are available and their failure to do so in such a situation casts a shadow of doubt on the prosecution case. In the present case also admittedly the independent witnesses were available at the time of recovery but they refused to associate themselves in the investigation. This explanation does not inspire confidence because the police officials who are*

*the only witnesses examined in the case have not given the names and addresses of the persons contacted to join. It is a very common excuse that the witnesses from the public refused to join the investigation. A police officer conducting investigation of a crime is entitled to ask anybody to join the investigation and on refusal by a person from the public the Investigating Officer can take action against such a person under the law. Had it been a fact that the witnesses from the public had refused to join the investigation, the Investigating Officer must have proceeded against them under the relevant provisions of law. The failure to do so by the police officer is suggestive of the fact that the explanation for non-joining the witnesses from the public is an after thought and is not worthy of credence. All these facts taken together make the prosecution case highly doubtful”.*

In case law reported as **“Sadhu Singh V/s State of Punjab”**, **1997 (3) Crimes 55** the Hon'ble Punjab & Haryana High Court observed as under:-

*“5. In a criminal trial, it is for the prosecution to establish its case beyond all reasonable doubts. It is for the prosecution to travel the entire distance from may have to must have. If the prosecution appears to be improbable or lacks credibility the benefit of doubt necessarily has to go to the accused.*

*6. In the present case, the State examined two witnesses namely, Harbans Singh ASI who appeared as PW1 and Kartar Singh PW2. Both the witnesses supported the prosecution version in terms of the recovery of opium from the person of the petitioner, but there was no public witness who had joined. It is not necessary in such recoveries that public witnesses must be*

*joined, but attempt must be made to join the public witnesses. There can be cases when public witnesses are reluctant to join or are not available. All the same, the prosecution must show a genuine attempt having been made to join a public witness or that they were not available. A stereo-type statement of non-availability will not be sufficient particularly when at the relevant time, it was not difficult to procure the service of public witness. This reflects adversely on the prosecution version”.*

17. Considering the aforesaid observations made by the Higher Courts, the omissions/failure on the part of investigating agency to join independent public witnesses create reasonable doubt in the prosecution story. Making bald averments that public persons were asked to join the investigation but none agreed without giving any written notice to them does not inspire the confidence of the Court.

18. The next inconsistency in the case of the prosecution is the failure to prove the arrival and departure entries of the police officials. It is pertinent to mention that the present case rests entirely on the alleged recovery of case property, i.e. buttondar knife from the possession of the accused at the relevant time by the police officials. Police officials are under a statutory duty to mark their departure and arrival in the register kept in the police station for above purpose as per the Punjab Police Rules. It is relevant here to reproduce Chapter 22 Rule 49 of the Punjab Police Rules, 1934, which reads as under:

***"22.49 Matters to be entered in Register No. II.***

The following matters shall, amongst others, be entered:

(c) The hour of arrival and departure on duty at or from a police station

of all enrolled police officers of whatever rank, whether posted at the police station or elsewhere, with a statement of the nature of their duty. This entry shall be made immediately on arrival or prior to the departure of the officer concerned and shall be attested by the latter personally by signature or seal.”

19. Since public persons were not joined in the investigation, the departure entry of the aforesaid police officials who formed part of the raiding party and had apprehended the accused with the case property becomes a vital piece of evidence. In the case in hand neither the departure entry nor arrival entry was proved by prosecution, however, proof of the said entry is indispensable as the present case rests solely on the alleged recovery made by the aforesaid police officials. Further, there is no arrival entry on record of all the police officials involved in the present investigation. Therefore, the failure to prove the aforementioned entries casts a doubt on the story of the prosecution.

20. Further, as per evidence on record, the seal after use was not given to any independent public person but was infact given to PW-1/Ct. Dinesh as per the seizure memo Ex. PW-1/C. The said witness was also a material prosecution witness being a witness to the alleged recovery of the illicit knife from the possession of the accused and such a material witness of a case is always interested in the success of the case of the prosecution and keeping view this factum chances of fabrication of case property cannot be ruled out. Moreover, no seal handing over memo is also on record. Hence, considering the legal position, the benefit of doubt should be given to the accused, as tampering with case property in such a

scenario cannot be ruled out. Reliance is placed on the judgment of ***Ramji Singh Vs. State of Haryana 2007 (3) R.C.C. (Criminal) 452***, wherein it is held that-

*“7. The very purpose of giving seal to an independent person is to avoid tampering of the case property. It is well settled that till the case property is not dispatched to the forensic science laboratory, the seal should not be available to the prosecuting agency and in the absence of such a safeguard the possibility of seal, contraband and the samples being tampered with cannot be ruled out.”*

Similarly, the Hon'ble Delhi High Court in ***Safiullah v. State, 1993 (1) RCR (Criminal) 622***, held that -

*“10. The seals after use were kept by the police officials themselves. Therefore the possibility of tampering with the contents of the sealed parcel cannot be ruled out. It was very essential for the prosecution to have established from stage to stage the fact that the sample was not tampered with. Once a doubt is created in the preservation of the sample the benefit of the same should go to the accused.”*

21. It is also pertinent to mention here that the case property i.e. the illicit knife alleged to be recovered from the accused was never produced in Court. The case property was disposed off as per the report of the concerned District Nazir before it could be produced in Court. Surprisingly, no photographs of the case property were also taken when the property was being disposed off. Photograph of only the katta alleged to be containing the knife in question was produced, which was of no help without

the knife being visible in it. Therefore, without production and subsequent identification of the case property by the prosecution witnesses, the case of the prosecution itself falls to the ground.

22. From the aforesaid discussion, it is very clear that the manner in which the inquiry, seizure and search etc. has been conducted on the spot at the time of alleged recovery of case property, makes the prosecution version highly doubtful qua the offence u/s 25 Arms Act. Further, the non-production of the case property before the Court also strikes at the root of the case of the prosecution.

23. With regard to the charge u/s 174A IPC framed against the accused, it would be helpful to reproduce the relevant provisions before delving into the merits of the present case.

***Section 174A IPC Non-appearance in response to a proclamation under section 82 of Act 2 of 1974.—***

*Whoever fails to appear at the specified place and the specified time as required by a proclamation published under sub-section (1) of section 82 of the Code of Criminal Procedure, 1973 shall be punished with imprisonment for a term which may extend to three years or with fine or with both, and where a declaration has been made under sub section (4) of that section pronouncing him as a proclaimed offender, he shall be punished with imprisonment for a term which may extend to seven years and shall also be liable to fine.*

***Section 82 Cr.P.C. Proclamation for person absconding.***

*(1) If any Court has reason to believe (whether after taking evidence or not) that any person against whom a warrant has been issued by it has absconded or is concealing himself so that such warrant cannot be executed, such Court may publish a written proclamation requiring him to appear at a specified place and at a specified time not less than thirty*



*days from the date of publishing such proclamation.*

*(2)The proclamation shall be published as follows :-*

*(i)(a)it shall be publicly read in some conspicuous place of the town or village in which such person ordinarily resides;*

*(b)it shall be affixed to some conspicuous part of the house or homestead in which such person ordinarily resides or to some conspicuous place of such town or village;*

*(c)a copy thereof shall be affixed to some conspicuous part of the court-house;*

*(ii)the Court may also, if it thinks fit, direct a copy of the proclamation to be published in a daily newspaper circulating in the place in which such person ordinarily resides.*

*(3)A statement in writing by the Court issuing the proclamation to the effect that the proclamation was duly published on a specified day, in the manner specified in clause (i) of sub-section (2), shall be conclusive evidence that the requirements of this Section have been complied with, and that the proclamation was published on such day.*

**24.** In the instant matter, it is the case of the prosecution that vide proclamation dated 04.05.2012, the accused was directed to appear before this court but despite direction he did not appear before the court and on 03.09.2012 he was declared to be a proclaimed person. It is therefore, alleged that the accused has committed the offence u/s 174 IPC.

**25.** The prosecution examined PW-3/ASI Mahender and PW-4/ASI Upender to bring home the aforesaid charge. Both the said witnesses deposed that on 01.11..2022 they were apprised by a secret informer that accused Chaman Lal would come to Kanti Nagar, Red Light near Police Booth, Service Road, Delhi at around 5:30-6:00 PM. Based upon the said

information, both the said witnesses alongwith other police officials namely HC Amit, ASI Vinod, Ct. Vikrant and Ct. Vikas went to the aforesaid place at about 4:30 PM. They further deposed that around 7:00 PM accused Chaman Lal came to the spot and was apprehended by them and was arrested vide arrest memo Ex.PW3/A and was produced before the court and was remanded to JC.

26. PW-5/Retd. SI Kavarjeet Singh deposed that on 04.05.2012 he was the process server who went to execute the process u/s 82 Cr.P.C against accused Chaman Lal @ Sunil at his address B-127, Gali No.21, Vijay Park, Delhi. He further deposed that at the said address, the owner Bhule Singh was found who stated that the accused left his premises 8-9 years back. The statement of the said person was recorded and the witness prepared his report which is already Ex.CW1/A. PW-5 further deposed that on 03.09.2012, his statement as process server was already recorded by the then Ld. MM. A perusal of the record shows that in fact the statement of the said process server was recorded on 03.09.2022 before the court itself and his report was exhibited as Ex.CW1/A.

27. From the evidence of record, it is clear that the process u/s 82 Cr.P.C was duly executed against the accused as per the procedure laid down in the section itself including the public announcement and affixation of the proclamation at his house as well in the Court premises. The process server visited the address of the accused i.e. B-127, Gali No.21, Vijay Park, Delhi where the owner of the house was found who stated that the accused has left the said premises 8-9 years back. The

statement of the said owner and another tenant Sh. Bindeshwar was also recorded by the process server. Thereafter, the copy of the process was pasted on the said address/premises, however, the accused still failed to appear before the court. The accused was then declared as a proclaimed person by the court on 03.09.2012 after ensuring that the process u/s 82 Cr.P.C. was duly executed. The subsequent arrest and production of the accused before the court has also been proved by the testimonies of PW-3 and PW-4. Supplementary Chargesheet u/s 174A IPC was then filed by PW-6/ASI Vinod Kumar as has been deposed by him in his testimony.

28. Further, it is not in doubt that the accused was aware of the present case as he had appeared in Court and charge was also framed against him on 30.08.2006. Therefore, he was fully aware of the case at hand and it is clear that he deliberately stopped appearing before the Court and failed to appear despite issuance of various processes. No reasonable explanation has been given for his non-appearance before the Court despite issuance of summons/warrants and proclamation. Further, no evidence has been adduced nor any plea has been taken that the accused was not served at the given address or that he was unaware of the Court proceedings.

29. In view of the aforesaid discussion, the Court has reached the conclusion that the prosecution has duly proved its case against the accused for commission of offence u/s 174A IPC. As per Section 82(3) of the Cr.P.C., the satisfaction of the concerned court is the conclusive evidence that the requirements of this section have been complied with

and that the proclamation was published on such date. Such satisfaction having being recorded by the Court on 03.09.2012, no doubt remains in the instant case qua the commission of the offence u/s 174A IPC by the accused.

30. At this stage, it would also be worthwhile to refer to the judgment of Hon'ble Supreme Court in ***Sarwan Singh vs State of Punjab (AIR 1957 SC 637)*** regarding the nature of burden of proof on the prosecution to prove its case. The ratio of this judgment is applied with the same vigour even after passing of more than 50 years. It was held in this case that:- *"There may also be an element of truth in the prosecution story against the accused. Considered as a whole, the prosecution story may be true; but between 'may be true' and 'must be true' there is inevitably a long distance to travel and the whole of this distance must be covered by the prosecution by legal, reliable and unimpeachable evidence before an accused can be convicted."* Again in ***Jagdish Prasad vs State (Govt Of NCT Of Delhi) 2011 (9) LRC 206 (Del)***, the Hon'ble High Court of Delhi had observed that *"It is well settled that in a criminal case, in order to bring home the guilt of the accused, the prosecution is required to establish the guilt beyond a shadow of reasonable doubt. If, on consideration of the prosecution evidence, a reasonable doubt remains in respect of culpability of the accused, he is entitled to benefit of doubt."*

31. In view of the above discussion, this Court is of considered view that in the present case the prosecution has failed to prove its case against the accused beyond reasonable doubt for the offence u/s 25 Arms Act. ***Accordingly, accused is acquitted for the offence punishable u/s 25 Arms***

*Act. However, the accused is convicted for the offence u/s 174A IPC as the same has been proved by the prosecution beyond reasonable doubt.*

32. Copy of this judgment be given free of cost to the accused.

Announced in the open  
Court on 2<sup>nd</sup> July, 2026

(MANSI MALIK)  
Addl. Chief Metropolitan Magistrate-02  
Central/Tis Hazari Courts, Delhi