

ITEM NO.112

COURT NO.15

SECTION II-B

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Criminal Appeal No. 1811/2011

DAVINDER SINGH @ GHULLA

Appellant(s)

VERSUS

STATE OF PUNJAB

Respondent(s)

Date : 31-08-2023 This matter was called on for hearing today.

CORAM :

HON'BLE MS. JUSTICE BELA M. TRIVEDI
HON'BLE MR. JUSTICE DIPANKAR DATTA

For Appellant(s)

Mr. Gagan Gupta, AOR

For Respondent(s)

Ms. Nupur Kumar, AOR
Mr. Ambuj Tiwari, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Heard learned counsel for the parties.

The instant appeal arises out of the judgment and order dated 27.09.2010 passed by the High Court of Punjab & Haryana at Chandigarh in Criminal Revision no. 139/2004, whereby the High Court has dismissed the revision application preferred by the appellant-accused and confirmed the conviction and sentence awarded by the trial Court and upheld by the appellate Court.

The appellant-accused was convicted for the offence punishable under Section 25 of the Arms Act, 1959 (for short "the Act") by the Sub-Divisional Magistrate, Baba Bakala, Amritsar, Punjab in Criminal Case no. 42/1999, and was sentenced to undergo rigorous imprisonment for a period of one year and pay fine of Rs.1,000/-

(Rupees one thousand only); in default thereof, to undergo further rigorous imprisonment for a period of two months. The appellate Court, i.e., the Additional Sessions Judge, Amritsar in Criminal Appeal no. 14/2002 preferred by the appellant, confirmed the said conviction and sentence recorded by the trial Court.

Briefly stated, on 28.11.1998, Head Constable Santokh Singh was on patrol duty and was present on a bridge of the canal in the area of village Gaggar Bhana. The appellant-accused was seen coming towards the bridge and suddenly tried to flee. However, on suspicion, Head Constable Santokh Singh overpowered him. After enquiry, a personal search was made and the appellant-accused was found in possession of a country made pistol and five live cartridges. After completing the necessary formalities, the appellant-accused was arrested and after the completion of the investigation, he was tried by the trial Court, where the guilt of the appellant-accused under Section 25 of the Act was duly proved.

It may be noted that all the Courts below have held the appellant-accused guilty for the offence punishable under Section 25 of the Act. Having regard to the said provision, it appears that there are many parts of Section 25. Considering the entire Section as a whole and the judgments of the Courts below, we are of the opinion that the Courts below have construed him to be guilty for the offence punishable under Section 25(1B)(a) of the Act, which provided for the punishment with imprisonment for a term not less than one year extendable to three years and also a fine.

After having heard the learned counsel for the parties and considering the evidence on record, we are of the opinion that all

the Courts below have rightly recorded the conviction of the appellant-accused for the alleged offence. We, therefore, are not inclined to interfere with the said concurrent findings of conviction recorded by three Courts.

At this stage, the learned counsel for the appellant-accused has requested to reduce the period of sentence by drawing the attention of the Court to the proviso to Section 25(1B) of the Act, which states the Court may for any adequate and special reasons to be recorded in the judgment impose a sentence of imprisonment for a term of less than one year.

According to the learned counsel for the appellant-accused, the incident is of the year 1999 and the appellant-accused has his old mother to look after. He also submits that the appellant-accused is not involved in any other case except the present one and since the appellant-accused has already undergone one month and 15 days of imprisonment, the sentence be reduced to the said extent and at the most, the fine be increased. In this regard, the learned counsel for the State seeks time to take instructions as to whether any other case has been registered against the appellant-accused or not.

List the matter on 13.09.2023 at the top of the Board, only for the purpose of enabling the learned counsel for the State to take instructions, and pass further orders on sentence.

(DEEPAK GUGLANI)
AR-cum-PS

(R.S. NARAYANAN)
ASSISTANT REGISTRAR