
(2010) 03 PAT CK 0095
In the Patna High Court

Amod Singh and Azzimullah

APPELLANT

Vs

State of Bihar

RESPONDENT

Date of Decision : 25-03-2010

Acts Referred:

Arms Act, 1959 — Section 25, 26, 35

Citation : (2011) 2 PLJR 709

Hon'ble Judges : Mandhata Singh, J

Bench : Single Bench

Judgement

Mandhata Singh, J.—Heard the parties.

2. In brief, on information police party reached the place where Orchestra Programme was going on. Three persons were apprehended from there alleging that they were trying to escape from the gathering. Of them one loaded country made pistol was recovered from co-accused Binda Singh, one cartridge from the possession of petitioner No. 2 and nothing was recovered from petitioner No. 1. This much of the story was made for accusation against all the three for the offence under sections 25(1-B)a, 26 and 35 of the Arms Act.

3. Out of them two (petitioners) faced trial and convicted by the trial court for the offence under Sections 25(1-B)a, 26 and 35 of the Arms Act. Petitioner No. 1 was sentenced for one year for the offence u/s 25(1-B)a of the Arms Act and one year for Section 26/35 of the Arms Act and petitioner No. 2 for two years each for the offence u/s 25(1-B)a, 26 and 35 of the Arms Act which is confirmed in appeal also. Legality, correctness and propriety have been questioned for filing this revision.

4. After going through the judgment it appears that trial court as well as appellate court are made for conviction and not to do justice as without recovery petitioner No. 1 is convicted and sentenced also and both the petitioners have been convicted in several sections of the Arms Act for a single recovery of a cartridge from one of them. Recovery, if any, is supported by the witnesses only

meant to say that recovery from petitioner No. 2 has been corroborated in trial but that is not liable to be sustained for petitioner No. 1. As per prosecution, a single cartridge is recovered from petitioner No. 2 also but several sections are made applicable finding corroboration of the recovery. Without doubting its legality that can be minimized while awarding relief on the point of sentence and as such, sentence is minimized for a period of one year for petitioner No. 2.

5. Accordingly, the revision petition is allowed in part. Conviction and sentence awarded against petitioner No. 1 by the trial court as well as by the appellate court are set aside. He is acquitted of his charge and ordered to be set at liberty. He is discharged from the liability of bail bonds. As about petitioner No. 2, conviction is confirmed but sentence is minimized for a period of one year. After completion of one year counting the period already undergone he will be released from custody if not wanted in any other case.