
(1989) 04 P&H CK 0085
In the Punjab And Haryana At Chandigarh

Mohan Bir Singh	Vs	APPELLANT
State of Punjab		RESPONDENT

Date of Decision : 19-04-1989

Acts Referred:

Arms Act, 1959 — Section 25

Citation : (1989) CriLJ 2215 : (1989) 1 RCR(Criminal) 649

Hon'ble Judges : Harbans Singh Rai, J

Bench : Single Bench

Judgement

Harbans Singh Rai, J.—Jawand Singh son of Jagir Singh, Driver resident of Talwandi Khurd, District Ludhiana as prosecuted u/s 25 of the Arms Act and convicted by Shri R.L. Anand, Additional Judge, Special Court, Ludhiana vide his order dt. 18-2-1985.

2. The allegation against Jaswant Singh was that he was in possession of .38 bore Smith Weason U.S. revolver and as he could not produce any licence for the same, he had committed an offence under the Arms Act. During trial it revealed that the weapon belonged to Mohanbir Singh in whose employment Jawant Singh was as a Driver and it was a licenced weapon of Mohanbir Singh who appeared as D.W. 1. Shri R.L Anand, learned Additional Judge, Special Court, Ludhiana, while convicting Jawant Singh, confiscated the weapon to the State.

3. Mohanbir Singh feeling aggrieved, filed a petition in the Hon"ble Supreme Court of India challenging the confiscation of the weapon. The apex Court directed him to approach this Court. A Division Bench of this Court presided over by Chief Justice, V. Ramaswami, ordered on Dec. 18, 1987 that a regular appeal against confiscation be filed. The Bench also condoned limitation. Consequently, this appeal has been filed by Mohanbir Singh.

4. I have heard the learned Counsel for the parties and gone through the judgment. The main grievance of the appellant is that at the time the confiscation order was passed, he was not heard.

5. Mohanbir Singh, appellant while appearing as D.W. 1 had stated that the weapon recovered from Jawand Singh was his licenced weapon. If an adverse order was to be passed against Mohanbir Singh, he should have been given a notice to show cause as to why the weapon be not confiscated. As no notice was issued at the time of confiscation, the order confiscating the revolver, Ex. P1 is set aside and the case is remanded to the trial Court to decide the issue of confiscation after giving an opportunity of being heard to the parties. Parties through their counsel are directed to appear in the trial Court on May 29, 1989. With this direction, the appeal is disposed of.