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**(2011) 12 JH CK 0035**

**In the Jharkhand High Court**

**Case No : Criminal Revision No. 131 of 1999 (R)**

Rajan Munda

APPELLANT

Vs

The State of Bihar now Jharkhand

RESPONDENT

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**Date of Decision : 15-12-2011**

**Acts Referred:**

Arms Act, 1959 — Section 25B(1), 26, 26(3), 27, 35

**Citation : (2012) 1 JLJR 86**

**Hon'ble Judges : Rakesh Ranjan Prasad, J**

**Bench : Single Bench**

**Final Decision : Allowed**

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## **Judgement**

R.R. Prasad, J.—This revision application is directed against the judgment and order dated 24.5.1999 passed in Cr. Appeal No. 92 of 1998 by the then 3rd Additional Judicial Commissioner, Ranchi affirming the judgment of conviction and order of sentence dated 29.7.1998 passed by the judicial Magistrate, 1st Class, Ranchi in G.R. No. 3156 of 1994, whereby and whereunder, the petitioners on being found guilty for the offence under Sections 25(1-B)/26 and 35 of Arms Act were sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs. 200/-.

2. The case of the prosecution is that while the police party was on patrolling duty, they saw three persons standing near Tikli Tola More with one Vespa Scooter and as soon as they saw the police coming towards them, they started running away. All three persons on being chased were apprehended who disclosed their name as Rajan Munda, Arjun Munda and Charku Pahan. On search being made, country-made pistols were recovered from Rajan Munda as also from Arjun Munda, whereas no incriminating article was recovered from the possession of Charku Pahan. Thereupon, Fulan Nath, Officer-in-charge of Gonda Police Station (P.W. 2) lodged a case which was registered as Gonda (Bariatu) RS. Case No. 134 of 1994 under Sections 25(1-B)/26(3)/27/35 of Arms Act.

3. On submission of the charge-sheet, when the petitioners were put on trial, they pleaded not guilty and claimed to be tried.

4. In course of trial, the prosecution in order to bring the charges proved examined as many as 4 witnesses. Of them, P.W. 2, Fulan Nath, is the informant, whereas P.W. 3, Jai Ram Singh, is the Investigating Officer. P.W. 1, Silkautush Bakhla, is an Arms Expert, whereas P.W. 4, Dorthy Lakra, is a formal witness who has proved the sanction order (Ext.-6).

5. Trial Court on finding that the prosecution has been able to prove the case recorded the order of conviction and sentence. That order was challenged before the Appellate Court and the Appellate Court affirmed the order passed by the trial court.

6. Having heard learned counsel for the parties and on perusal of the record, I do find that it is the case of the prosecution that while three persons were standing at a place, they on seeing the police coming towards them tried to run away but they were apprehended and on search being made, country made pistols were recovered from the possession of Rajan Munda and Arjun Munda whereas nothing was recovered from the possession of Charku Pahan. In support of the allegation, P.W. 2-informant was examined by the prosecution who did depose about the recovery of firearms from Rajan Munda and Arjun Munda but he failed to identify them in the dock. Similar is the case with P.W. 3. Moreover, the firearms, which are said to have been recovered from the possession of Rajan Munda and Arjun Munda, had never been produced before the court below. Under these circumstances, the trial court as well as the appellate court were not justified in holding the petitioners guilty for the charges levelled against them, rather the prosecution can be said to have failed palpably in proving the charges against the petitioners.

7. Hence, the judgment and order dated 24.5.1999 passed by the appellate court affirming the judgment of conviction and order of sentence dated 29.7.1998 passed by the trial court is hereby set aside.

8. Consequently, the petitioners are acquitted of the charges levelled against them. Accordingly, all three petitioners are discharged from the liability of their bail bonds.

9. In the result, this revision application is allowed.