
(2006) 01 JH CK 0008

In the Jharkhand High Court

Case No : Criminal Revision No. 994 of 2005

Yogendra Singh @ Radhey Shyam Singh and Another

APPELLANT

Vs

State of Jharkhand

RESPONDENT

Date of Decision : 02-01-2006

Acts Referred:

Arms Act, 1959 — Section 25(1B), 26

Citation : (2006) 2 Crimes 595 : (2006) CriLJ 1884 : (2006) 1 JCR 408

Hon'ble Judges : N. Dhinakar, C.J

Bench : Single Bench

Advocate : K.K. Mishra, for the Appellant; M.B. Lal, APP, for the Respondent

Final Decision : Dismissed

Judgement

N. Dhinakar, CJ.

1. The petitioners, Yogendra Singh @ Radhey Shyam Singh and Sudama Singh, were appellants in Cr. Appeal Nos. 45 of 2005 and 33 of 2005 respectively before the Sessions Judge, Gumla and the said appeals were filed against the judgment and conviction passed against them by the learned Judicial Magistrate, 1st class, Gumla under Sections 25(1-B)(a) and 26 of the Arms Act. The trial Court on finding the petitioners guilty, sentenced each one of them to undergo rigorous imprisonment for two years u/s 25(1-B)(a) and rigorous imprisonment for one year u/s 26 of the Arms Act.

2. The allegation against them is that at 6 p.m. on 28.2.2002 when PW 4, the Investigating Officer, was at Turbul market found the petitioner coming in a motorcycle and on seeing the police party tried to escape from the police but were overpowered and caught. When the police officer, PW 4, searched the person of these two petitioners, he found 12 Bore cartridge in the pocket of Sudama Singh and a pistol in the waist of Yogendra Singh. A seizure list of the recovered materials attested by PWs 1 and 2 in presence of PWs 3 and 5, the members of the Armed forces, was prepared. After the investigation, final report

was filed.

3. The learned Counsel appearing for the petitioners submits that when the material objects which were sent to the Court, they were sent as if they were recovered in PS Case No. 4 of 2002 of Kamdara police station and, therefore, these material objects could not have been seized in connection with PS Case No. 5 of 2002 of the said police station.

4. I find no substance in the said argument.

5. The case of the prosecution, as stated earlier, is that after arresting one Karampal Sahu in connection with Kamdara PS Case No. 4 of 2002, the police officer was waiting at Turbul and arrested two persons when they were coming in a motorcycle and seized the material objects and thereafter a separate crime was registered in PS Case No. 5 considered by the Courts below and they gave findings on the above facts. The Courts below chose to accept the evidence of the police officer, even though the witnesses, who attested the seizure list, have turned hostile. It is not in dispute that the Court need not reject the evidence of a police officer, merely because he happens to be a person, in uniform. Evidence of a police officer is to be considered as the evidence of any other witness. The Courts below having accepted the evidence of the Police officer, I find no reason to interfere with the said finding, to hold otherwise. The discrepancy, as regards the recovery, on which the learned Counsel wanted to place reliance are too trivial in nature for a revisional Court to interfere with the findings given on facts by the Courts below. I, therefore, hold that the Courts below rightly convicted the petitioner.

5. The learned counsel for the petitioner pleads that the petitioner may be dealt with leniently.

6. I have heard Mr. A.K. Chaturvedi, learned Counsel for the petitioner on the above pleadings and taking into consideration the facts and circumstances of the case, I feel that the sentence of imprisonment imposed upon the petitioner u/s 25(1-B)(a) of the Arms Act is reduced to a period of one year and the sentence of imprisonment of two years imposed upon the petitioner u/s 26 of the Arms Act is also reduced to a period of one year with a further direction that the sentences will run concurrently.

7. With the above modification in the order of sentence, the revision is dismissed.