

Sahdev Vs. the State of Madhya Pradesh

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Court : Madhya Pradesh

Decided On : Oct-10-2013

Appellant : Sahdev

Respondent : The State of Madhya Pradesh

Judgement :

Cr.R.No.1744/2013 10.10.2013 Shri Sankalp Kochar, Advocate for petitioner.

Shri Yogesh Dhande, Government Advocate for the respondent/State.

With consent, the matter is finally heard.

This revision petition has been preferred against the order dated 17.8.2013 passed by II Additional Sessions Judge, Betul in S.T.No.131/13 whereby the objection raised by the petitioner in regard to framing of charge under Section 25/27 of the Arms Act (for short the Act) has been overruled.

Having regard to the arguments advanced by the parties, impugned order was perused.

It is an admitted fact that in Crime No.45/13 registered at Police Station Betul Bazar, charge-sheet was filed against the petitioner for the offences under Section 307 of the IPC and Section 25/27 of the Act.

From the bare perusal of the impugned order, it is also clear that mandatory provision of Section 39 of the Act has not been complied with by the prosecution and without obtaining any sanction from the District Magistrate, charge-sheet was filed in respect of the offence under Section 25 of the Act.

As per provision of Section 39 of the Act- no prosecution shall be instituted against any person in respect of any offence under Section 3 without the previous sanction of the District Magistrate and as per Section 3 of the Act - Licence is required for acquisition and possession of fire arms and ammunitions.

If violation of Section 3 of the Act is committed then it will be punishable under Section 25(1B)(a) of the Act, but to punish under the aforesaid section, prosecution shall not be instituted without obtaining sanction under Section 39 of the Act.

So far as Section 27 of the Act is concerned, it has been made for punishment for using the arms etc.in contravention of Section 5 of the Act and for that purpose no sanction under Section 39 of the Act is required.

It is an admitted fact that charge-sheet has been filed by the prosecution without obtaining any sanction under Section 39 of the Act.

Charges under Sections 341, 307 of the IPC and 25(1A) of the Act were framed by the trial Court.

Charge under S.25(1A) of the Act is framed when contravention of Section 7 of the Act is committed and for that purpose no sanction is required under Section 39 of the Act.

Therefore, the revision sans merit and is, accordingly, dismissed.

Copy of the order be sent to the trial Court for information.

(B.D.RATHI) JUDGE (and)

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