

T. Devendiran Vs. State through The Inspector of Police, Madurai District

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Court : Chennai Madurai

Decided On : Jun-24-2016

Judge : The Honourable Dr. Justice P. Devadass

Appeal No. : CRL.RC(MD) No. 324 of 2016 & CrI.M.P.(MD) No. 4252 of 2016

Appellant : T. Devendiran

Respondent : State through The Inspector of Police, Madurai District

Judgement :

(Prayer: Criminal Revision Petition is filed, under Section 397 r/w 401 Cr.P.C., praying to call for the records in charge sheet in S.C.No.191/2015 on the file of 3rd Additional Assistant Sessions Judge, Madurai, Usilampatti Camp dated 31.03.2016, set aside the particular charge for offence under Section 25 of Arms Act.)

1. A1 challenges framing of a charge under Section 25 of the Arms Act as against him in S.C.No.191 of 2015 by the learned 3rd Additional Assistant Sessions Judge, Madurai at his Camp Sitzings at Usilampatti, Madurai District.

2. According to the learned counsel for the revision petitioner, taking the allegations Section 25 of the Arms Act is not attracted. Thus, charge No.3 framed under Section 25 of the Arms Act is unsustainable in law.

3. The learned Government Advocate submitted that in the F.I.R. Section 25 of the Arms Act has been added. In his final report the investigation officer has not included Section 25 of the Arms Act. However, at the time of framing of charges, the trial Court has framed a charge under the said section also.

4. I have anxiously considered their submissions and also perused the impugned multiple charges framed as against the revision petitioner.

5. Under charge No.3, it is alleged that A1 is stated to have assaulted the complainant with the bud of the pistol on his head and he is to be charged under Section 25 of the Arms Act.

6. Section 25 of the Arms Act runs as under:

25. Punishment for certain offences?

(1) Whoever?

(a) manufactures, sells, transfers, converts, repairs, tests or proves, or exposes or offers for sale or transfer, or has in his possession for sale, transfer, conversion, repair, test or proof, any arms or ammunition in contravention of section 5; or

(b) shortens the barrel of a firearm or converts an imitation firearm into a firearm in contravention of section 6; or

(d) bring into, or takes out of, India, any arms or ammunition of any class or description in contravention of section 11, shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine.

[(1A) Whoever acquires, has in his possession or carries any prohibited arms or prohibited ammunition in contravention of section 7 shall be punishable with imprisonment for a term which shall not be less than five years, but which may extend to ten years and shall also be liable to fine.

(1AA) Whoever manufactures, sells, transfers, converts, repairs, tests or proves, or exposes or offers for sale or transfer or has in his possession for sale, transfer,

conversion, repair, test or proof, any prohibited arms or prohibited ammunition in contravention of section 7 shall be punishable with imprisonment for a term which shall not be less than seven years but which may extend to imprisonment for life and shall also be liable to fine.]

[(1AAA)] Whoever has in contravention of a notification issued under section 24A in his possession or in contravention of a notification issued under section 24B carries or otherwise has in his possession, any arms or ammunition shall be punishable with imprisonment for a term which shall not be less than 24 [three years, but which may extend to seven years] shall also be liable to fine.

(1B) Whoever?

(a) acquires, has in his possession or carries any firearm or ammunition in contravention of section 3; or

(b) acquires, has in his possession or carries in any place specified by notification under section 4 any arms of such class or description as has been specified in that notification in contravention of that section; or

(c) sells or transfers any firearm which does not bear the name of the maker, manufacturer s number or other identification mark stamped or otherwise shown thereon as required by sub-section (2) of section 8 or does any act in contravention of sub-section (1) of that section; or

(d) being a person to whom sub-clause (ii) or sub-clause (iii) of clause (a) of sub-section (1) of section 9 applies, acquires, has in his possession or carries any firearm or ammunition in contravention of that section; or

(e) sells or transfers, or converts, repairs, tests or proves any firearm or ammunition in contravention of clause (b) of sub-section (1) of section 9; or

(f) brings into, or takes out of, India, any arms or ammunition in contravention of section 10; or

(g) transports any arms or ammunition in contravention of section 12; or

(h) fails to deposit arms or ammunition as required by sub-section (2) of section 3, or sub-section (1) of section 21; or

(i) being a manufacturer of, or dealer in, arms or ammunition, fails, on being required to do so by rules made under section 44, to maintain a record or account or to make therein all such entries as are required by such rules or intentionally makes a false entry therein or prevents or obstructs the inspection of such record or account or the making of copies of entries therefrom or prevents or obstructs the entry into any premises or other place where arms or ammunition are or is manufactured or kept or intentionally fails to exhibit or conceals such arms or ammunition or refuses to point out where the same are or is manufactured or kept, shall be punishable with imprisonment for a term which shall not be less than 25 [one year] but which may extend to three years and shall also be liable to fine: Provided that the Court may for any adequate and special reasons to be recorded in the judgment impose a sentence of imprisonment for a term of less than 6[one year].

[(1C) Notwithstanding anything contained in sub-section (1B), whoever commits an offence punishable under that sub-section in any disturbed area shall be punishable with imprisonment for a term which shall not be less than three years but which may extend to seven years and shall also be liable to fine. Explanation. -- For the purposes of this sub-section, disturbed area means any area declared to be a disturbed area under any enactment, for the time being in force, making provision for the suppression of disorder and restoration and maintenance of public order, and includes any areas specified by notification under section 24A or section 24B.]

(2) Whoever being a person to whom sub-clause (i) of clause (a) of sub-section (1) of section 9 applies, acquires, has in his possession or carries any firearm or ammunition in contravention of that section shall be punishable with imprisonment for a term which may extend to one year, or with fine or with both.

[(3) Whoever sells or transfers any firearm, ammunition or other arms?

(i) without informing the district magistrate having jurisdiction or the officer in charge of the nearest police station, of the intended sale or transfer of that firearm, ammunition or other arms; or

(ii) before the expiration of the period of forty-five days from the date of giving such information to such district magistrate or the officer in charge of the police station, in contravention of the provisions of clause (a) or clause (b) of the proviso to sub-section (2) of section 5, shall be punishable with imprisonment for a term which may extend to six months, or with fine of an amount which may extend to five hundred rupees, or with both.]

(4) Whoever fails to deliver-up a licence when so required by the licensing authority under sub-section (1) of section 17 for the purpose of varying the conditions specified in the licence or fails to surrender a licence to the appropriate authority under sub-section (10) of that section on its suspension or revocation shall be punishable with imprisonment for a term which may extend to six months, or with fine of an amount which may extend to five hundred rupees, or with both.

(5) Whoever, when required under section 19 to give his name and address, refuses to give such name and address or gives a name or address which subsequently transpires to be false shall be punishable with imprisonment for a term which may extend to six months, or with fine of an amount which may extend to two hundred rupees, or with both.

7. Now, in this case, on the occurrence day, at the time of occurrence the revision petitioner/A1 is alleged to have used his licensed pistol as a weapon of offence and assaulted the complainant on his head, who sustained simple injury. Admittedly, the revision petitioner has not used the fire arm to shoot anybody. Admittedly, using the pistol he did not open fire at all. Admittedly, the complainant does not suffer bullet injuries. The said allegation is not an offence under Section 25 of the Arms Act. In such view of the matter framing of charge under Section 25 of the Arms Act is defective.

8. In the circumstances, charge No.3 framed under Section 25 of the Arms Act as against revision petitioner/A1 is deleted. Now charge No.4 will become charge

No.3.

9. Accordingly, this revision petition is disposed of. Consequently, connected Miscellaneous Petition is closed.

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