

Ankena Narayana Vs. State

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Court : Andhra Pradesh

Decided On : Jul-25-2007

Reported in : 2007CriLJ4395

Judge : Bilal Nazki, J.

Acts : [Arms Act, 1959](#) - Sections 2 and 25

Appeal No. : Cri. Revn. Case No. 995 of 2003

Appellant : Ankena Narayana

Respondent : State

Advocate for Def. : Public Prosecutor

Advocate for Pet/Ap. : K. Rathanga Pani Reddy, Adv.

Disposition : Petition dismissed

Judgement :

ORDER

Bilal Nazki, J.

1. The petitioner was tried for an offence under Section 25 of the [Arms Act, 1959](#) (for short 'the Act') for having possession of a country made gun without any license. He pleaded not guilty and claimed to be tried. After trial, the trial Court

convicted him for that offence and sentenced him to suffer rigorous imprisonment for six months and also to pay a fine of Rs. 1,000/-, in default of payment of fine, to undergo simple imprisonment for 9 months. In appeal, the appellate Court confirmed the conviction and sentence.

2. In this revision, the only ground agitated before this Court by the learned Counsel for petitioner is that it is an admitted fact that the gun which was recovered from the petitioner, was not in working condition, therefore, even if it is believed that the accused was carrying the gun, he could not be convicted under the provisions of the Act. According to the judgment of the appellate Court, Ex. P-4 was the opinion of the expert, who had given an opinion that M. O. 1, which was the country made SBML gun, was not in working order. He had further stated that if repaired, it could be brought into working order. Therefore, the trial Court and the appellate Court, on the ground that the gun could be put to use after repairing, held that its carrying was an offence in terms of the provisions of the Act.

3. Whether the gun could be repaired or not, was not the important question. The 'two important questions which arose for consideration were whether a gun which becomes defective, ceases to be a gun or not, and the second question was even if the gun could not be used as a gun because of the defect it had, whether it was an 'arm' within the meaning of Section 2(c) of the Act. I do not think that answer to both these questions is difficult. If the expert's opinion was that the article carried by the accused was a gun, it was gun for all practical purposes. If a machinery fails on account of a defect like a motor car, it does not cease to be a motor car. Therefore, the mere defect in a weapon would not make it into a category where it will not be called an 'arm' or weapon. Coming to the second question, 'arms' have been defined in Section 2(c) of the Act as under -

'arms' means articles of any description designed or adapted as weapons for offence or defence, and includes firearms, sharp-edged and other deadly weapons and parts of, and machinery for manufacturing arms, but does not include articles designed solely for domestic or agricultural uses such as a lathi or an ordinary walking stick and weapons incapable of being used otherwise than as toys or of being converted into serviceable weapons.

4. A bare perusal of this definition would show that even if a gun was only a gun-looking article and could never be used as a gun, still it was an 'arm' within the meaning of the definition because, 'arm' would mean an article of any description designed or adapted as weapon for offence or defence and it only excludes articles designed solely for domestic or agricultural use such as a lathi or an ordinary walking stick. Therefore, the gun which was not in working condition, was neither a walking stick nor a lathi nor an agricultural implement and as such, a gun which is not even in working condition, falls within the definition of 'arm' under Section 2(c) of the Act.

5. For these reasons, I do not find any ground to interfere in the matter. The revision is accordingly dismissed. The conviction and sentence imposed on the petitioner/ accused by the Courts below is confirmed. His bail bonds are cancelled. He shall immediately surrender before the trial Court to undergo the sentence of imprisonment.