

**Photu Singh Vs. State**

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**Court :** Allahabad

**Decided On :** Nov-21-1960

**Reported in :** 1962CriLJ682

**Judge :** B. Dayal, J.

**Appellant :** Photu Singh

**Respondent :** State

**Judgement :**

ORDER

**B. Dayal, J.**

1. This is a revision by Photu Singh who has been convicted under Section 19f Arms Act and has been sentenced to two years' R.I.

2. The prosecution case was that the station Officer having received information that the applicant, who was wanted in several crimes end was present in the house of Mahesh Pd. in Mohalla Qaisar Ganj, in the city of Meerut, a raid was organised to arrest him. After taking mutual search, the raiding party surrounded the house of Mahesh Pd. and when they found the applicant together with Khub Singh sitting on one cot and Mahesh Pd. and his son on the other. When the applicant saw that the raiding party had arrived there, he tried to take out a revolver from a leather case which was hanging on his shoulder under his kurta.

The witnesses overpowered the accused and got the revolver snatched from him.

3. Upon these facts the only contention raised by the learned Counsel for the applicant is that the case was covered by Section 20 of the Arms Act and should have been committed to the Court of Session and the conviction of the applicant under Section 19(f) Arms Act was illegal. It is admitted in all hands that Section 19(f) Arms Act makes punishable mere possession of all arm without a licence. Section 20 of the Arms Act runs as follows:

Whoever does any act mentioned in Clauses (a), (c), (d) or (f) of Section 19, in such manner as to indicate an intention that such act may not be known to any public servant as defined in the I.P.C., or to' any person employed upon a railway or to the servant of any public carrier, and

Whoever, on any search being made under Section 25, conceals or attempts to conceal any arm ammunition or military stores shall be punished with imprisonment for a term which may extend to seven years, or with fine, or with both.

The very words Of this section clearly indicate that a case is covered by Section 20 of the Act only if apart from possession, the accused does some positive act which would indicate that he is trying to conceal the arm from a police officer or a railway servant. Something more than mere possession has to be proved before the case is covered by Section 20. In the present case there is no evidence whatsoever to indict that the accused tried to conceal the arm from the police when he learnt that the police had come. On the contrary, the evidence is that he started taking out the arm from a leather case in which it was kept.

4. Learned Counsel has cited several cases in order to show that this case would be covered by Section 20 of the Act. He has relied upon the case of Yashpal v. Emperor : AIR1933 All627 In that case, the accused ran away from the room where he was sitting when the police arrived and knocked at the door. He was seized by the police officer from room to room and ultimately when he was cornered he started shooting at the police officer. Upon those facts, it was said by a Division Bench of this Court as follows:

We consider that as a matter of fact the ingredients of Section 20 are proved in the present case. The accused person had this revolver in his possession and when the police appeared he attempted to run away with his revolver and he also attempted to shoot Mr. Pilditch with his revolver. His intention therefore was that his possession of the revolver might not be known to the police, that is, that he might make his escape with the revolver.

This case is therefore distinguishable from the present case in which there was no attempt on the part of the accused to conceal the revolver and he was sitting at the place of a friend where normally there was no question of either the police or the railway officials coming and seeing the revolver.

5. The second case relied upon by the learned Counsel was that of *Sachindra Kar Gupta v. Emperor* : AIR1933 Cal692 . In that case the accused was passing on a cycle on a road and there were special police instructions to keep a watch upon that road for the accused. When the accused came that side, he was apprehended and a revolver was recovered tied with a cloth round his waist. The principle of law was accepted that in each case it has to be decided upon facts whether the case fell under Section 19(f) or Section 20 of the Arms Act. For applying Section 20 to a case there must be some special indication of an intention to conceal possession of the Arms from a public servant, railway official or public carrier. Reverting to the facts of that Particular case, the Division Bench observed as follows:

A revolver was stolen a few weeks before it was discovered in the possession of accused, who himself was an escaped convict. The police had received special instructions to picket the roads and look out for him. This fact had been communicated to the accused. The revolver was found in a holster, tied with a cloth round his waist, and underneath his coat and shirt. When asked, he failed to account for it. In these circumstances there was ample evidence of the intention required by Section 20.

The facts of that case are also distinguishable from the present one.

6. The last case relied, upon by the learned Counsel was *Said Gul v. Emperor* AIR 1931 Lah 663. After considering a number of casts, the principle of law laid down,

in the case of Abdul Wahid v. Emperor AIR 1928 Lah 110 was accepted as correct, which laid down as follows:

Section 20 is not confined to cases where the import or the export of arms is attempted but that the fact that a person is concealing a weapon while he is at a railway platform must indicate an intention to conceal that weapon from inter alia railway officials who were on that platform.

Applying that reasoning, the learned Judge held that the accused who was travelling in a railway compartment had kept the revolver concealed in the inner pocket of his inner coat Over which he was wearing an overcoat or attempted to conceal the presence of that revolver from the railway officials. That case is also distinguishable to the present case.

I see no reason to apply Section 20 of the Arms Act to the present case. It is simply a case of possessing an Arm without any licence. There is no force in this revision and it is accordingly rejected.

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