

Maharaj Singh Vs. State

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Court : Delhi

Decided On : May-26-1987

Reported in : 1987(13)DRJ275

Judge : M.K. Chawla, J.

Acts : [Arms Act, 1959](#) - Sections 25; [Probation of Offenders Act, 1958](#)

Appeal No. : Criminal Revision Appeal No. 162 of 1985

Appellant : Maharaj Singh

Respondent : State

Advocate for Pet/Ap. : S.K. Agarwal and; B.T. Singh, Advs

Judgement :

M.K. Chawla, J.

(1) On 9-10-1982 at about 7.45 P.M. at Wz 15/IM, Navyug Block, Vishnu Garden, within the jurisdiction of Police Station Tilak Nagar, the present petitioner was found in possession of one country-made pistol .380 and nine .380 live cartridges without any permit or license. He was arrested and challaned under Section 25 of the [Arms Act, 1959](#). The trial terminated in his conviction and sentence of one year R.I. and a fine of Rs. 500. In default of payment of fine, he was further directed to undergo R.I. for two months.

(2) The accused did not press the appeal and accepted the verdict of conviction, but prayed for the reduction of sentence before the Additional Sessions Judge, Delhi. Keeping in view the unblemished past of the petitioner, the sentence was reduced from one year to 9 months R.I. The order regarding fine was, however, maintained.

(3) The revision petition was admitted by G.R. Luthra, J. on 13-9-85 on the point of sentence only. Later on, the report of the Probation Officer as to the desirability or otherwise of giving benefit of probation to the accused was called for. The said report has since been received recommending the grant of benefit of probation under the [Probation of Offenders Act, 1958](#).

(4) The submission of the learned counsel for the petitioner is that after observing that the petitioner is not a previous convict and had unblemished record, the benefit of Probation of Offenders Act should have been extended. In any case, the petitioner can still be let off on the basis of sentence already undergone, inasmuch as, he remained in judicial custody for a period of two months. The learned counsel for the State has no serious objection, if any of the two alternatives is adopted.

(5) I have carefully perused the record and find that there was sufficient material before the court below to base the conviction of the petitioner. It stands established from cogent evidence that the accused was found in possession of one pistol and nine live cartridges of revolver and six cartridges of rifle wrapped in a potli at his residence. Nothing has been shown as to why the witnesses of the recovery should not be believed. They had no ill-will motive or hostility against the accused nor has their evidence been seriously challenged. In view of these circumstances, I have no hesitation to accept the truthfulness of the prosecution version and maintain the conviction.

(6) On the question of sentence, however, the accused deserves leniency. He is not a previous convict. He is the sole bread-earner for his large family. His case has also been recommended by the Probation Officer for his release on probation. The enquiry report reveals that he enjoys good reputation in the area. The economic condition of his family is very poor. In case he is ordered to serve the

remaining part of his sentence, the family members will have no source of livelihood. The circumstances of the petitioner compel this court to reduce his sentence of imprisonment to the one already undergone. Ordered accordingly. The accused is on bail. His bail bond is discharged. The observations made in this appeal shall have no bearing on the connected case against the accused, pending trial in the court of Additional Sessions Judge, New Delhi.

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