

Purshotam Singh Vs. State

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Court : Delhi

Decided On : Nov-15-1985

Reported in : 29(1986)DLT280; 1986(10)DRJ78

Judge : G.R. Luthra, J.

Acts : [Indian Penal code, 1860](#) - Sections 307

Appeal No. : Criminal Appeal No. 215 of 1985

Appellant : Purshotam Singh

Respondent : State

Advocate for Pet/Ap. : Ravinder Chadha and; D.R. Sethi, Advs

Judgement :

G.R. Luthra, J.

(1) The present appeal is directed against the order dated July 18, 1985 of Shri P.S. Sharma. Addl. Sessions Judge, Delhi. The appellant was tried before the said court in respect of the commission of an offence punishable under Section 307 read with Section 34 I P.C. by use of a revolver. The learned Addl. Sessions Judge acquitted the appellant but passed an order that the revolver in this case shall stand confiscated to the State. The petitioner feels aggrieved against the order of the confiscation of the revolver.

(2) The provision regarding confiscation of a weapon or any arm is contained in Section 32 of the Arms Act, which reads as under :

'When any person is convicted under this Act of any offence committed by him in respect of any arms or ammunition, it shall be in the discretion of the convicting court further to direct that the whole or any portion of such arms or ammunition and any vessel, vehicle or other means of conveyance and any receptacle or thing containing or used to conceal, the arms or ammunition shall be confiscated. Provided that if the conviction is let aside on appeal or otherwise, the order of confiscation shall become void. (2) An order of confiscation may also be made by the appellate court or by the High Court when exercising its powers of revision.'

It is clear that the confiscation can be ordered only if a person is convicted. Here the appellant was acquitted and hence the order of confiscation is obviously illegal. I, therefore, accept the appeal to this extent and set aside the order of confiscation.

(3) However, one question arises as to whether the revolver should be handed over to the petitioner or not. The petitioner says that he is the owner of the revolver and was keeping the same under a valid license renewed up to 26th February, 1986. He has placed on the record photostat copy of his license. However, this is a matter which can be decided by the learned Addl. Sessions Judge concerned on making of an application by the appellant. therefore, the appellant will be at liberty to make an application to the Addl. Sessions Judge who shall decide the same in accordance with the law. A copy of this order shall be sent to the learned Addl. Sessions Judge for information and necessary action. This appeal stands disposed of.

(4) The file of the trial court shall be sent back to the said court. In the meanwhile the revolver shall be kept in tact and shall abide by the decision of the Additional Sessions Judge.