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Darbara Singh Vs. State of Rajasthan

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Court : Rajasthan

Decided On : Apr-24-1989

Reported in : 1989WLN(UC)61

Judge : N.C. Sharma, J.

Appeal No. : S.B. Cr. Revision No. 110 of 1989

Appellant : Darbara Singh

Respondent : State of Rajasthan

Advocate for Pet/Ap. : Shri. Dhankhar

Disposition : Petition allowed

Judgement :

N.C. Sharma, J.

1. Heard, Shri Dhankhar, counsel for the petitioner and Shri Lokesh Sharma, Public Prosecutor for the State.

2. The Chief Judicial Magistrate, Bharatpur has held the petitioner guilty for the offence under Section 3/25 of the Arms Act and sentenced him to rigorous imprisonment for one year. The reasons given for the sentence were that 5 guns, 2 kattas and 8 cartridges were found in possession of the petitioner and the same

were unlicensed Section 360(1) of the Code of Criminal Procedure, 1973, inter alia, provides that when any person not under twenty-one years of age is convicted of an offence punishable with fine only or with imprisonment for a term of seven years or less, and when no previous conviction is proved against the offender, if it is appears to the Court before he is convicted, regard being had to the age, character or antecedents of the offender, and to the circumstances in which the offence was committed, that it is expedient that the offender should be released on probation of good conduct, the Court may, instead of sentencing him at once to any punishment, direct that he be released on his entering into a bond, with or without sureties, to appear and receive sentence when called upon during such period not exceeding three years as he may direct and in the mean time to keep peace and be of good behaviour.

3. In the instant case, the Chief Judicial Magistrate did not make any inquiry and did not take into consideration the age, character or antecedents of the offender.

4. I, therefore, allow this revision and remand the case to the Chief Judicial Magistrate, Bharatpur for re-deciding The question of sentence having regard to provisions contained in Section 360 of the Code of Criminal Procedure.

5. Counsel for the petitioner urges that the petitioner may be released on bail pending decision by the Chief Judicial Magistrate. For that, the petitioner is at liberty to apply before the Chief Judicial Magistrate.

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