

State of Punjab v. Kartar Singh (M. R. Sharma, J.)

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(10) For the reasons given above I am of the opinion that the orders of the learned Additional Sessions Judge, are bad in law and have to be set aside.

(11) In the result, the petitions are allowed, the orders of remand passed by the learned Additional Sessions Judge, Rupnagar are set aside and Cr. Appeals No. 33/1978 and 32/1978 are restored to their respective files. The learned Additional Sessions Judge will dispose of the appeals in accordance with law in the light of the observations made above. The parties through their counsel are directed to appear in the said Court on 17th May, 1979. As the appeals appear to be old ones the learned Additional Sessions Judge will see that these are disposed of at an early date.

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H.S.B.

Before M. R. Sharma and C. S. Tiwana, JJ.

STATE OF PUNJAB,—Appellant.

versus

KARTAR SINGH,—Respondent.

Criminal Appeal No. 1083 of 1976.

April 26, 1979.

*Arms Act (LIV of 1959)—Sections 2(1) (b) & (c) and 25—Country made pistol and live cartridges recovered from an accused—Statement of investigating officer based on visual examination of the recovered material—No challenge by the accused regarding recovered material being on 'arm' and 'ammunition'—Accused—Whether can be convicted on such evidence.*

*Held, that parts of an arm also fall within the definition of 'arms' as given in section 2(1) (c) of the Arms Act 1959 and live cartridges are covered by the definition of 'ammunition' as stated in section 2(1)(b). Where a country made pistol and live cartridges are recovered from the accused, the statement of the police officer who extensively deals with such materials in the official discharge of his duties and which is not challenged in cross examination by the accused is sufficient to hold that the articles recovered from the accused answer the description of the terms 'arms' and 'ammunition'. In such circumstances, it is not necessary for the prosecution*

to lead further evidence to establish that the articles seized were a weapon within the meaning of the definition and the accused can be convicted under section 25 of the Act. (Para 5).

*Guljar Singh and others v. The State of Maharashtra*, 1976  
Criminal Law Journal 205 DISSENTED FROM.

*Appeal from the order of Smt. Bakshish Kaur, Chief Judicial Magistrate, Kapurthala, dated the 27th February, 1976, acquitting the respondent.*

*Charge*: Under section 25 of the Arms Act.

*Order*: Acquittal.

M. P. S. Gill, D.A.G. (Pb.), for the appellant.

Nemo, for the Respondent.

#### JUDGMENT

M. R. Sharma, J. (Oral).

(1) This is an appeal against the judgment of acquittal dated February 27, 1976, passed by the learned Chief Judicial Magistrate, Kapurthala, whereby she acquitted the respondent of an offence under section 25 of the Arms Act.

(2) The brief facts of the case are that on November 10, 1974 Sub-Inspector Rajinder Singh P.W. 2 formed a raiding party which consisted of Excise Inspector Satpal Singh P.W. 1 and some others. This party was returning from Sultanpur to Kapurthala in a Government vehicle. When it reached near the 'Bin Bridge', the respondent in the company of one Malook Singh was seen coming from the side of Kapurthala. On seeing the police party coming in the vehicle, the two of them tried to make a detour when they were apprehended on suspicion. Personal search of the respondent was made who was found to be in possession of pistol Ex. P. 1 and two live cartridges of .12 bore. These articles were taken into possession by Rajinder Singh Sub-Inspector P.W. 2,—*vide* recovery Memo. Ex. PB. The Investigating Officer sent a *ruqa* Ex. PC on the basis of which formal first information report Ex. PC/1 was recorded at police station, Kotwali Kapurthala.

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(3) At the trial, the prosecution relied upon the statements made by Excise Inspector Satpal Singh P.W. 1 and Sub-Inspector of Police Rajinder Singh P.W. 2. Both of them fully supported the prosecution case and stated that the pistol Ex. P. 1 and two live cartridges were recovered from the possession of the respondent as mentioned earlier. There was hardly any discrepancy in their respective statements and the learned Chief Judicial Magistrate in our opinion rightly found in favour of the prosecution on this point. However, before her reliance was placed on a Single Bench judgment of the Bombay High Court in *Guljar Singh and others v. The State of Maharashtra*, (1), wherein it was held that prosecution must establish that the materials brought before the Court should answer the description of the terms 'arms' and 'ammunition' as defined in the Arms Act. On this basis, the learned Chief Judicial Magistrate held that since the prosecution had led no evidence on this point, the respondent was entitled to have the benefit of doubt.

(4) With utmost respect to the learned Judge who decided *Guljar Singh's* case (supra) we are unable to endorse the reasoning adopted by him. Section 2(1) (c) of the Arms Act defines the term 'arms' as under :—

“ ‘Arms’ means articles of any description designed or adapted as weapons for offence or defence and includes fire-arms, 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.”

(5) Apparently, parts of an arm also fall within the aforesaid definition. Furthermore, section 2(1) (b) of the said Act defines “ammunition” as meaning ‘ammunition for any fire-arm, and includes rockets, shells, missiles and other articles containing or designed or adapted to contain explosives, fulminating or fissionable material or other such thing whether capable of use with fire-arms or not.’ In the instant case, recovery Memo. Ex. PB clearly mentions that the arm recovered was a country-made pistol and the ammunition recovered were live cartridges. Sub-Inspector Rajinder Singh P.W. 2 is a

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(1) 1976 Criminal Law Journal 205.

police officer who extensively deals with such materials in the official discharge of his duties. When he appeared as a witness, the statement made by him on this point was not at all challenged on behalf of the respondent. In the circumstances, we hold that the articles recovered from the respondent in the instant case did answer the description of the terms 'arms' and 'ammunition'. The learned Chief Judicial Magistrate should not have, therefore, held otherwise.

(6) For the reasons aforementioned, we allow this appeal, convict the respondent under section 25 of the Arms Act but in view of the time factor involved impose a fine of Rs. 60 on him on this count. In default of payment of fine, he shall undergo rigorous imprisonment for two weeks. The appeal stands disposed of accordingly.

*H. S. B.*

*Before S. S. Sandhawalia C.J. and G. C. Mital, J.*

BEHARI LAL,—Appellant.

*versus*

STATE OF HARYANA and another,—Respondents.

*Regular First Appeal No. 232 of 1971*

May 2, 1979

A. S. Nehra, Additional A. G. with Anil K. Pawar, K. C. Puri, Advocate, with S. K. Goyal, and R. C. Puri, Advocates; *for respondent No. 2.*

#### JUDGMENT

*S. S. Sandhawalia, C.J.*

(1) Whether under section 18(4)(b) of the Punjab Security of Land Tenures Act, the land vests forthwith in the purchasing tenant on the payment of the first instalment by him in pursuance of the order of the trial court, irrespective of the facts that in the subsequent appellate or revision proceedings, the purchase price may be revised, is the primary legal question which arises in these two connected Regular First Appeals.