



**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CRR No.2186 of 2008 (O&M)
Reserved on :27.08.2025
Pronounced on: 23.09.2025.**

Nirmal Singh

.....Petitioner

Versus

State of Punjab

..... Respondent

CORAM: HON'BLE MR.JUSTICE SURYA PARTAP SINGH

Argued by:Mr. A.S.Ahluwalia, Advocate for the petitioner.

Mr. Rohit Bansal, Sr. DAG Punjab.

SURYA PARTAP SINGH, J. (Oral):

This is a revision petition, to challenge the judgment of conviction and order of sentence passed by the Court of learned Judicial Magistrate Ist Class, hereinafter being referred to as trial Court, and the order in appeal passed by the Court of learned Sessions Judge, Bathinda, hereinafter being referred as Appellate Court.

2. Shorn-off all the unnecessary details, the aforementioned prosecution was launched at the instance of Sub Inspector Janak Singh who had reported to the Police Station that while on patrolling duty alongwith other police officials, on 11.08.2002, on the basis of suspicious movements when a person was intercepted, from his possession a 12 bore double barrel gun was recovered. Resultantly, the FIR pertaining to instant case was



lodged. The petitioner was formally arrested and sent to stand trial.

3. The present petition has been filed by the petitioner, who has been convicted by the learned trial Court and the conviction has been upheld by the Appellate Court, on the grounds that both the Courts below have committed an error of judgment while appreciating the factual matrix of the case vis-a-vis the evidence adduced by the prosecution. According to petitioner, the technical defects present in the case, the contradictions in the testimony of prosecution witnesses and other deficiencies in the prosecution case have been ignored by the learned trial Court vis-a-vis learned Appellate Court and, therefore, there is a scope, and requirement also, to exercise the revisional jurisdiction, of this Court to interfere in the findings returned by the learned trial Court, duly affirmed by the learned Sessions Court.

4. Heard.

5. It has been argued by learned counsel for the petitioner that both the Courts below have ignored that the evidence adduced by the prosecution was, too, deficient to warrant conviction and that by any stretch of imagination this inference could not have been drawn that the prosecution had successfully discharged its burden, i.e. proving of charges beyond the shadow of all reasonable doubts. While arguing that the testimonies of prosecution witnesses, who were official witnesses, were not creditworthy, it has been pointed out by learned counsel for the petitioner that even the sanction for the prosecution was not in conformity with law. In view of above mentioned arguments, the learned counsel for the petitioner has sought indulgence of this Court. The petitioner is and craving for acquittal.



6. Per contra, learned State counsel has argued that the petitioner has approached this Court in a revision petition, wherein the scope of interference is very limited. According to learned State counsel it is a settled law that in a revision petition the revisional Court should refrain from re-appreciation of evidence or to record a finding of facts. According to learned State counsel all the essential ingredients meant for the constitution of an offence under Section-25 of Arms Act have been duly established by the prosecution in the instant case and, therefore, the plea by the petitioner that he has been wrongly convicted is not sustainable. The learned State counsel has argued that the evidence adduced by the petitioner is thoroughly consistent and, therefore, indulgence and interference of revisional jurisdiction of this Court in the impugned judgment is not warranted.

7. The records has been perused carefully.

8. While appreciating the grounds of revision in the present case the first and foremost thing which has to be kept in mind that conviction of petitioner would have taken place only if the charge against him would have been proved beyond the shadow of all reasonable doubts and also that there was no technical defect in the prosecution.

9. To prove charge against the petitioner, beyond the shadow of all reasonable doubts, the first and foremost requirement on the part of the prosecution is that all technical aspects are properly met and the testimony of prosecution witnesses are worthy of inspiring confidence. In the present case, one of the significant factor, to be taken into consideration, is that for



the prosecution of petitioner it is a pre-requisite that there should have been a valid sanction for the prosecution of petitioner.

10. In the present case, to prove such sanction the prosecution has relied upon the testimony of PW1, an official of the office of Deputy Commissioner. The PW1 in his testimony has come forward with a deposition that the sanction order has been signed by the Additional District Magistrate. Since the sanction order was signed by the Additional District Magistrate it is incumbent upon the prosecution to prove that the Additional District Magistrate has been duly authorized and notified to issue such sanction, because the pre-requisite as prescribed under the Indian Arms Act 1959 is that the sanction order must be signed by the District Magistrate and not the Additional District Magistrate. However, there is nothing on record to prove that any such sanction for the prosecution of petitioner has been issued by an authorized person.

11. One of the significant factor to be taken into consideration, in the instant case, is that in order to prove recovery of weapon from the possession of accused one of the essential document to be placed on record is the sketch of that weapon, but in the present case such sketch is missing. Another significant factor to be taken into consideration is that as per the case set up by the prosecution, at the time of recovery of country made pistol from the possession of petitioner Atma Singh son of Sudha Singh, an independent witness, was also present. However, the above named independent witness, whose testimony is of utmost importance, has not supported the prosecution case. Rather, the above named person has



appeared before the trial Court as DW1 and testified that he was not present on the spot at the time of recovery. As per DW-1 his signatures were obtained by the police on blank paper. The above mentioned deposition of sole independent witness of alleged recovery rips apart the story set out by the prosecution with regard to recovery of weapon from the possession of petitioner.

12. Similar is the situation with constable Hakam Singh who has been examined as DW-2. In his testimony the DW2, too, has not supported the prosecution case despite being a police official. The DW-2 has deposed that his signatures were obtained on blank papers. Another witness DW-4, Head Constable Gopal Krishan, has deposed that there is no record to show that on 11.08.2002 Constable Hakam Singh was on leave.

13. If the affidavit of PW4 is taken out of consideration, for want of above mentioned technical defect, it leads to a situation wherein a link evidence is missing. It is settled law that in a case based entirely on the testimony of official witness if link evidence is missing, it renders the prosecution case to be doubtful.

14. If the cumulative effect of above mentioned factors is taken into consideration it transpires that an error of judgement has been committed by the trial Court vis-a-vis learned Appellate Court, while ignoring the above mentioned legal defects and, therefore, in my opinion while holding the petitioner to be guilty a jurisdiction has been wrongly exercised by the trial Court. Therefore, there is a need for indulgence and interference of revisional jurisdiction of this Court and by exercising the above mentioned



jurisdiction, the present revision petition is hereby allowed and the impugned judgments of learned trial Court vis-a-vis learned Sessions Court are hereby set aside and the petitioner is hereby acquitted of the charges framed against him. The present petition stands disposed of accordingly.

(SURYA PARTAP SINGH)
JUDGE

Pronounced on: 23.09.2025

Manoj Bhutani

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No