



**HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JODHPUR**

S.B. Criminal Appeal (Sb) No. 1558/2024
CNR: RJHC010774392024 | URN: CRLAS / 4280U / 2024

Ramswaroop S/o Sh. Prahlad Singh, Aged About 24 Years, R/o
Bani Ka Bas, Ps Dudhwakhara, Dist. Churu, Raj.

-----Appellant

Versus

State Of Rajasthan, Through Pp

-----Respondent

For Appellant(s) : Ms. Priyanka Borana
For Respondent(s) : Mr. Narendra Gehlot, PP

HON'BLE MR. JUSTICE FARJAND ALI

Order

REPORTABLE

28/09/2026

1. This Court has received a communication dated 20.05.2026 from the learned Trial Court informing that the appellant has already undergone the entire sentence awarded to him, including the sentence imposed in default of payment of fine, pursuant to the judgment dated 01.08.2024 passed by the learned Additional Sessions Judge, Churu in Sessions Case No.27/2015.
2. Heard learned counsel for the parties and perused the impugned judgment as well as the material available on record.
3. The record reveals that the appellant was tried for the offences punishable under Sections 147, 148, 450/149, 452/149, 395/149, 397/149, 398/149, 435/149, 307/149 and 120-B/149 of the Indian Penal Code, besides Sections 3/25 and 3/27 of the Arms Act. Upon conclusion of the trial, the learned Trial Court found that the prosecution had failed to establish the aforesaid



charges against the appellant and, consequently, acquitted him of all such offences. The appellant was, however, held guilty for the offence punishable under Section 3/25 of the Arms Act.

4. Learned counsel for the appellant, on instructions, has fairly submitted that the appellant does not assail the finding of conviction recorded by the learned Trial Court and that his grievance in the present appeal is confined to the sentence awarded to him.

5. Although the finding of conviction has not been specifically challenged, this Court has independently examined the record so as to satisfy itself regarding the correctness and sustainability of the finding of guilt. Upon such consideration, this Court finds that the appreciation of evidence undertaken by the learned Trial Court does not suffer from any patent illegality, perversity or material infirmity warranting interference in appellate jurisdiction.

5.1. It is also noteworthy that the appellant was originally charged with a number of serious offences under the Indian Penal Code as well as the Arms Act, but the prosecution failed to establish those charges during trial. Consequently, the appellant came to be acquitted of all the said offences and his conviction ultimately remained confined to the offence punishable under Section 3/25 of the Arms Act.

5.2. On an overall consideration of the evidence and the findings recorded by the learned Trial Court, this Court finds no compelling reason to disturb the conviction recorded against the appellant. The finding of guilt, therefore, deserves to be affirmed.





5.3. Accordingly, the conviction of the appellant for the offence punishable under Section 3/25 of the Arms Act is affirmed.

6. The question of sentence, however, requires separate consideration. It is apparent from the impugned judgment that the appellant was duly heard on the question of sentence. The learned Trial Court itself noticed that the appellant had no previous conviction and that the present case constituted his first offence. There is also nothing on record to indicate that he had any criminal antecedent. It further appears that the appellant remained subjected to the criminal proceedings for nearly nine years.

6.1. A prayer was made before the learned Trial Court for extending the benefit of probation. The said prayer, however, came to be declined without recording any specific reason for such refusal.

6.2. In the considered opinion of this Court, the aforesaid aspect assumes significance. The exercise of sentencing jurisdiction is distinct from the determination of guilt. Once a person is found guilty, the Court is required to consider not merely the nature of the offence but also the circumstances in which it was committed, the antecedents and character of the offender and, wherever the statutory scheme permits, the possibility of his reformation and rehabilitation. The sentence imposed must consequently reflect a conscious judicial assessment of all relevant circumstances rather than being treated as an automatic consequence of conviction.



6.3. The provisions relating to probation are an expression of the reformatory dimension of criminal jurisprudence. They recognise that, in an appropriate case, the ends of justice may be better served by affording an offender an opportunity of reformation than by subjecting him to incarceration.

6.4. Section 360 Cr.P.C. specifically contemplates consideration of release on probation having regard, inter alia, to the age, character and antecedents of the offender and the circumstances in which the offence was committed. The statutory scheme is further reinforced by Section 361 Cr.P.C., which mandates that where the Court could have dealt with an accused under Section 360 or under the provisions of the Probation of Offenders Act, but chooses not to do so, it shall record special reasons for such course.

6.5. The requirement of recording reasons is of substantive significance. It obliges the sentencing Court to demonstrate that the question of probation has not been overlooked and that its rejection is founded upon circumstances germane to the case. The discretion undoubtedly remains with the Court, but such discretion has to be exercised judicially and upon relevant considerations.

6.6. In the present case, the circumstances which were brought to the notice of the learned Trial Court were not inconsequential. The appellant was a first-time offender; no previous conviction or criminal antecedent was attributed to him; he had remained involved in the criminal proceedings for nearly nine years; and, most importantly, the prosecution had failed to establish the other



charges with which he had initially been charged. These circumstances were certainly relevant for determining whether the appellant deserved the benefit of the reformatory provisions.

6.7. Yet, the impugned judgment does not disclose any specific reason as to why the prayer for probation was considered unmerited. There is no meaningful discussion of the appellant's antecedents or of the circumstances which may have rendered probation inappropriate in his case.

6.8. This Court is conscious of the fact that the benefit of probation is not to be extended as a matter of course merely because an accused has no previous conviction. The nature of the offence and the circumstances surrounding its commission remain relevant considerations. Nevertheless, where the plea for probation is specifically raised and the circumstances of the offender call for its consideration, the Court is required to deal with the plea in a reasoned manner. A mere rejection, unsupported by any special or cogent reason, does not satisfy the statutory requirement.

6.9. Viewed in that perspective, this Court finds that the sentencing exercise undertaken by the learned Trial Court, insofar as the prayer for probation is concerned, falls short of the statutory requirement. The learned Trial Court ought to have recorded reasons disclosing why, despite the circumstances attending the appellant, the benefit of probation was considered inappropriate. To this limited extent, therefore, the sentencing part of the impugned judgment warrants interference. There is,



however, a subsequent development which has a material bearing upon the relief that can now effectively be granted.

6.10. As noticed at the outset, this Court has been informed by the learned Trial Court that the appellant has already undergone the entire sentence imposed upon him, including the sentence awarded in default of payment of fine.

6.11. In view of the said subsequent development, the question of remanding the matter for reconsideration of the sentence or for passing any further substantive order has substantially lost its practical significance. The appellant has already undergone the sentence which was imposed upon him and, therefore, no further incarceration can usefully be directed at this stage.

7. For the reasons recorded hereinabove, the appeal is partly allowed. The finding of conviction recorded by the learned Addl. Sessions Judge, Churu in Sessions Case No.27/2015 against the appellant for the offence punishable under Section 3/25 of the Arms Act is hereby affirmed. However, this Court finds that the prayer for extending the benefit of probation was declined by the learned Trial Court without recording the special and cogent reasons contemplated by the statutory scheme, despite the relevant mitigating circumstances being available on record.

7.1. Since the appellant has already undergone the entire sentence imposed upon him, including the sentence awarded in default of payment of fine, no further order with regard to the sentence is required to be passed. If the appellant is presently in



custody pursuant to the impugned judgment and is not required in connection with any other case, he shall be released forthwith.

8. The record of the learned Trial Court be sent back forthwith.

9. The appeal as well as all pending applications if any stands disposed of accordingly.

(FARJAND ALI),J

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