THE HIGH COURT OF JHARKHAND AT RANCHI
Criminal Revision No. 785 of 2015

Shital Nishad @ Billu @ Bablu Nishad, S/o Late Umesh Nishad, R/o Mohulsai, Sashtri Nagar, P.O. and P.S. Muffasil, Dist. West Singhbhum
... ... **Petitioner**

Versus

The State of Jharkhand ... ... **Opp. Party**

For the Petitioner : Mr. Chandrajit Mukherjee, Advocate *(through V.C.)*
For the State : Mr. Sanjay Kr. Srivastava, A.P.P.

PRESENT
HON'BLE MR. JUSTICE ARUN KUMAR RAI

J U D G M E N T

C.A.V. on 28.01.2026 **Pronounced on 06.10.2026**

I.A No. 3932 of 2015

1. The present I.A. has been filed on behalf of the petitioner under Section 5 of the Limitation Act for condoning the delay of 215 days.

2. It has been submitted that the petitioner was under bonafide belief that the criminal appeal before the Sessions Court was pending and the present petitioner came to know about the dismissal of the appeal in the year 2015, as he was already on bail, therefore, he could not file the instant Criminal Revision within time and hence the delay of 215 days may be condoned.

3. Learned APP for the State has no objection.

4. Having heard learned counsel for the parties and in view of the averments made in paragraph nos. 3, 4 and 5 of the present I.A., the delay in preferring the instant Criminal Revision is, hereby, condoned.

5. Accordingly, I.A. No. 3932 of 2015 is, hereby, allowed and stands disposed of.

Criminal Revision No. 785 of 2015

6. The present criminal revision is directed against the judgment dated 01-08-2014 passed by Sessions Judge, West Singhbhum, Chaibasa in Criminal Appeal No. 107 of 2013, whereby and whereunder the appellate court has dismissed the appeal preferred by the petitioner and has affirmed the judgment of conviction dated 16-09-2013 passed by J.M., 1st Class, West Singhbhum, Chaibasa, in G.R. No. 451 of 2008, whereby the petitioner has been convicted for the offence under Section 25(1-B)(a) of Arms Act. However, the sessions Court has modified the sentence and directed to undergo R.I. for a period of one years and fine of Rs 1,000/- and in default of payment of fine, further directed to undergo R.I for two months.

7. Manjhari (Tantnagar) P.S. Case No. 30/2008 was registered under Sections 25(1-B)(a), 26(i) and 35 of Arms Act against the petitioner herein and other two persons (one was declared juvenile and its trial got separated), on the basis of the self-statement of S.I (Informant/P.W.-1), Tantnagar O.P. As per FIR, on 21.09.2008, on receiving a telephonic message, the informant (S.I. Tantnagar) along with other police personnel reached the designated place where three persons started fleeing away and thereafter chased and arrested. On search, a country made loaded pistol and a .303 live cartridge were recovered from the waist of the present petitioner. Upon completion of investigation, charge-sheet was submitted and cognizance of the offence was taken. Thereafter, charges under Sections 25(1-B)(a)/35 and 26/35 of Arms Act were framed. Upon trial, the learned Trial court convicted the present petitioner and other co-accused namely, Hari Charan Deogam @ Kadal Deogam, under Section 25(1-B)(a)/35 of Arms Act and sentenced each of them to undergo rigorous imprisonment for two years and to pay a fine of Rs.1,000/-.

8. Aggrieved by the judgment of conviction and order of sentence, the present petitioner preferred Criminal Appeal No. 107 of 2013 before the learned Sessions Judge, West Singhbhum, Chaibasa The above appeal was dismissed and the conviction was affirmed and sentence was modified to rigorous imprisonment for one year and fine of Rs.1,000/-, giving rise to the present revision.

9. It is required to be noted that other co-convict namely, Hari Charan Deogam @ Kadal Deogam, also preferred an appeal, being Cr. Appeal No. 110 of 2013, which was allowed by the learned Sessions Judge, and he was acquitted of the charges.

10. The learned counsel for the petitioner submitted that, in the absence of testimony of any independent witness supporting the alleged seizure, both the courts committed a manifest error in holding the seizure to be proved solely on the basis of the testimonies of the police officials. In alternatively, it is also submitted that from the possession of petitioner, a country-made loaded pistol and a .303 live cartridge were recovered and he had remained in custody for about 08 months 18 days out of rigorous imprisonment of one year and more than 17 years have been elapsed from the date of alleged occurrence. Therefore, imprisonment already undergone by the petitioner would meet the ends of justice in this case, instead of undergoing further imprisonment awarded by the learned Appellate Court. On the aforesaid premise, it was urged that the present revision deserves to be allowed.

11. Per contra, learned A.P.P. appearing for the State submitted that the scope of interference in revisional jurisdiction is extremely limited and does not permit re-appreciation of evidence. It was contended that both the Trial Court and the Appellate Court, upon due consideration of the evidence available on record, have

recorded concurrent findings of fact and, therefore, no interference with the judgment of conviction and order of sentence is required.

12. Heard learned counsel for the parties.

13. This Court has also perused the materials available on record, including the judgments rendered by the learned Trial Court as well as the learned Appellate Court.

14. It is well settled that, while exercising revisional jurisdiction, this Court does not sit as a court of appeal and cannot re-appreciate or reassess the evidence for the purpose of arriving at a conclusion different from that concurrently recorded by the courts below. Interference in revision is warranted only where the impugned findings suffer from patent illegality, manifest perversity, jurisdictional error, or result in a gross miscarriage of justice. In this regard, reference may be profitably made to the judgment of the Hon'ble Supreme Court in ***State of Kerala v. Puttumana Illath Jathavedan Namboodiri***, reported in ***(1999) 2 SCC 452***. The relevant paragraph of the judgment reads as under :–

> ***5.*** *… In its revisional jurisdiction, the High Court can call for and examine the record of any proceedings for the purpose of satisfying itself as to the correctness, legality or propriety of any finding, sentence or order. In other words, the jurisdiction is one of supervisory jurisdiction exercised by the High Court for correcting miscarriage of justice. But the said revisional power cannot be equated with the power of an appellate court nor can it be treated even as a second appellate jurisdiction. Ordinarily, therefore, it would not be appropriate for the High Court to reappreciate the evidence and come to its own conclusion on the same when the evidence has already been appreciated by the Magistrate as well as the Sessions Judge in appeal, unless any glaring feature is brought to the notice of the High Court which would otherwise tantamount to gross miscarriage of justice. On scrutinizing the impugned judgment of the High Court from the aforesaid standpoint, we have no hesitation to come to the conclusion that the High Court exceeded its jurisdiction in interfering with the conviction of the respondent by reappreciating the oral evidence. …….*

15. Adverting to the facts of the present case, it transpires that the prosecution has examined altogether nine witnesses in support of its case. The seizure-list witness, namely Umesh Nishad **(P.W.-4)** has duly proved his signatures appearing on the seizure list, which were marked as **Ext.-4**. However, this witness resiled from his

earlier statement *qua* seizure of fire arms from the accused in his presence and therefore, declared hostile by the learned trial court.

16. So far as the members of the police raiding party are concerned, Ranjeet Minz (P.W.-1), the informant-cum-S.I, proved his self-written statement together with the endorsement bearing his signature on written report, which was exhibited as Ext.-2/1 and 2/2 and also formal FIR as Ext.-3. In his deposition, he consistently reiterated the facts disclosed in the written report and categorically stated that the seizure list was prepared in the presence of the seizure witnesses. The testimony of Hawaldar Shankar Prasad Singh (P.W.-2), Ramanand Pathak (P.W.-3) and Krishna Sai (P.W.-8) who were members of the same raiding party, substantially corroborate the evidence of P.W.-1. These witnesses have unequivocally deposed regarding the recovery of a country-made loaded pistol and a .303 live cartridge from the petitioner and the preparation of the seizure list.

17. It further appears from the record that the independent witnesses, namely Bharat Bhusan Nishad (P.W.-5) amd Deepak Kumar (P.W.-9) proved their signature on arrest memo vide Ext.-7, but further not supported the case of prosecution. Pargana Purthy (P.W.-10), Ashish Purthy (P.W.-11) and Devendra Kumhar (P.W.-12) did not support the case of prosecution during trial and were consequently declared hostile by the learned trial court.

18. Merely because the independent witnesses have turned hostile, the prosecution case with regard to the recovery and seizure does not become doubtful *ipso facto*. The evidence of the members of the police raiding party cannot be discarded solely on the ground that no independent witness has supported the prosecution version. It is trite law that the testimony of police personnel

stands on the same footing as that of any other witness and, if found cogent, credible and trustworthy, can safely be relied upon notwithstanding the hostility of independent witnesses. In this regard, profitable reference may be made to the decision of the Hon'ble Supreme Court in ***Kripal Singh v. State of Rajasthan***, reported in ***(2019) 5 SCC 646***, wherein it has been held as under: -

> ***21.*** *The submission of the learned Senior Counsel for the appellant that recovery has not been proved by any independent witness is of no substance for the reason that in the absence of independent witness to support the recovery in substance cannot be ignored unless proved to the contrary. There is no such legal proposition that the evidence of police officials unless supported by independent witness is unworthy of acceptance or the evidence of police officials can be outrightly disregarded.*

19. P.W.-7 Anjani Kumar, Sergant Major has examined the weapon and found it to be in working condition. His report to this effect has been exhibited as Ext.-6.

20. In view of the aforesaid legal proposition and the discussion made in the preceding paragraphs, this Court finds that both the learned Trial Court and the learned Appellate Court have concurrently recorded a finding regarding the guilt of the petitioner for the offence punishable under Section 25(1-B)(a) of Arms Act. Nothing has been brought on record to discredit or impeach the credibility of the testimonies of the members of the police raiding party with respect to the recovery and seizure of the country-made pistol and the live cartridge. **Consequently**, the concurrent findings of fact recorded by the courts below do not warrant interference in exercise of the revisional jurisdiction of this Court.

21. However, it appears from the record that the occurrence is of the year **2008** and that the petitioner has endured the rigours of criminal litigation for about 18 years. It further transpires that the petitioner has no criminal antecedent and he is only the bread winner of the family and has also remained in judicial custody in

connection with the present case for 08 months 18 days out of awarded rigorous imprisonment of one year by the Sessions Judge. Having regard to the totality of the facts and circumstances, this Court is of the considered view that the ends of justice would be adequately served by modifying the sentence awarded to the petitioner and restricting it to the period already undergone by him.

22. **Accordingly**, the impugned judgments of conviction passed by the learned Trial Court and affirmed by the learned Appellate Court are **hereby upheld and affirmed.** However, the substantive sentence awarded to the petitioner stands modified to the period already undergone by him. The sentence of fine, however shall remain unaltered, including the default clause. The petitioner is directed to deposit the fine amount, if not already deposited, within ten weeks from the date of receipt of this judgment by the learned trial court, failing which, the learned trial court shall proceed in accordance with law.

23. Resultantly, the present Criminal revision being, Cr. Revision No. 785 of 2015 is, **partly allowed**, to the above extent.

24. Since, the petitioner is on bail, he is discharged from the liability of his bail bonds.

25. Let the copy of this judgment along with trial court record be sent to the concerned trial court for information and needful.

26. Pending I.A., if any, stands disposed of.

(Arun Kumar Rai, J.)

Abhishek
Dated: 06.10.2026
A.F.R.