

SUPREME COURT OF INDIA

Prem Singh

Vs.

State of (N.C.T.) Delhi

Crl.A.No.589 of 2002

(Arijit Pasayat J.)

24.04.2009

JUDGEMENT

Dr. Arijit Pasayat, J.

1. Challenge in this appeal is to the order passed by a learned Single Judge of the Delhi High Court in Criminal Appeal No. 233 of 1997 which dismissed the revision petition filed by the appellant. The appellant, who had faced trial for alleged commission of offences punishable under Section 307 of the *Indian Penal Code, 1860* (in short the `IPC') and Section 27 of the *Arms Act, 1959* (in short the `Arms Act').

2. Learned Additional Sessions Judge found the appellant guilty and convicted him to undergo rigorous imprisonment for three years and to pay a fine of Rs. 1,000/- with default stipulation. Similarly for the offence punishable under Section 27 of the Arms Act, custodial sentence of three years and a fine of Rs.1,000/- with default stipulation was filed.

3. Background facts in a nutshell are as follows:

“Preetam Pyare had agreed to purchase a plot from Prem Singh and Sunder Lal and had paid Rs.2000/- as earnest money to them. They, after accepting this earnest money, did not sell the plot to Preetam Pyare and had sold it to someone else and when Preetam Pyare demanded back his earnest money, they refused to return it. On 25.12.1992 at about 10.30 p.m. Prem Singh, Sunder Lal and Kakoo, came to the house of Preetam Pyare and took him away saying that they will return his earnest money. Preetam Pyare and his two sons Bhusan Lal and Kamal Kishore came along with them for having talks on the return of money and they reached in front of H.No.407- D, while talking. The wife of Preetam Pyare, Smt. Shanti Devi also followed them and while they were talking, the talks became uncordial and abuses were hurled. Sunder Lal and Kakoo were having lathis in their hands and Sunder Lal exhorted them to beat them. On this Prem Singh took out a 2 revolver and shot him in his chest. He also shot at Bhushan Lal S/o Preetam Pyare, in his chest saying that, this is the way to return the money. Kakoo and Sunder Lal had beaten Kamal Kishore, the

younger son of Preetam Pyare as a result of which he received injuries on his head. When Smt. Shanti Devi complainant, W/o Sh. Preetam Pyare raised an alarm, the accused persons ran away from the spot. The Mohalla people took the injured to the hospital. She then lodged a complaint with the police on the basis of which, rukka was sent and on the basis of which case under Section 307/34 IPC r/w of Arms Act 1959 was registered against the accused persons. The MLC for the injured was obtained and the accused persons were arrested. The revolver and the recovered bullet was seized and was sent for analysis to the CFSL and after completion of the formalities, the challan was filed in the court.”