

Naib Singh Vs State Of Haryana And Others

Court: High Court Of Punjab And Haryana At Chandigarh

Date of Decision: Dec. 11, 2020

Acts Referred: Indian Penal Code, 1860 " Section 107, 147, 148, 149, 186, 188, 120B, 121, 121A, 122, 224, 225, 307, 332, 342, 353, 435, 326A, 333

Prevention Of Damage To Public Property Act, 1984 " Section 3, 4

Explosives Act, 1884 " Section 4, 5, 7

Hon'ble Judges: H.S. Madaan, J

Bench: Single Bench

Advocate: Arjun Sheoran, Tanuj Sharma

Final Decision: Disposed Of

Judgement

The case has been taken up through Video Conferencing. Petitioner Naib Singh was booked in F.I.R. No. 428 dated 18.11.2014 for offences under

Sections 107/ 147/ 148/ 149/ 186/ 188/120B/121/121A/122/224/225/307/332/342/353/435/326A/333 IPC and A Act, 3, 4 PPD Act, 4, 5, 7 Explosive

Act, registered with Police Station Barwala and his licensed gun 0.12 Bore DBBL No. 23873-99 was taken into possession by the police as case

property. The trial in the said case is going on. Petitioner accused had moved an application before the trial Court seeking permission to release the

said gun on superdari and for selling it for the reason that he has got license for three weapons but as per amended provisions of the Arms Act, he can

only retain two weapons thus keeping third weapons by the petitioner would be illegal, therefore, his petition be accepted. The said petition was

dismissed of by learned Additional Sessions Judge, Hisar vide order dated 29.9.2020 with the following observations :-

“In case the gun is released to the petitioner on superdari, it will be in his illegal possession because he is only permitted to keep two arms under the

amended provisions of Arms Act. Said gun also cannot be allowed to be sold because it is a case property. Thus, keeping in view the aforementioned

facts and circumstances, the application stands dismissed. Papers be tagged with the main case file.”

Feeling aggrieved, the petitioner has approached this Court by way of filing the present petition seeking quashing of the impugned order.

In the said case, notice of motion has been issued for 12.1.2021. Now the petitioner has filed the present application for pre-ponement of the main

petition for the reason that license of weapon is expiring on 12.12.2020 and petitioner could face penal consequences for not depositing the weapon.

Notice of the application has been given to the State counsel.

I have heard learned counsel for the applicant and learned State counsel besides going through the record.

The application for pre-ponement is allowed and the main case is taken up today.

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The apprehension of the petitioner is that in view of the recent amendment in the Arms Act he may be prosecuted for possessing three weapons and

he be granted permission to sell 0.12 Bore DBBL gun. Since the 0.12 Bore DBBL gun is the case property and trial is going on, the same cannot

possibly be returned to him and permission cannot be granted to sell off the said weapon. The trial Court had rightly declined the request in that

regard. For the said reason, the police cannot possibly initiate any prosecution against the present petition for keeping three weapons when as

contended by learned counsel for the petitioner all the three licensed weapons of the petitioner have been seized by the police during investigation as

case property. The State counsel may inform District Magistrate and Superintendent of Police, Hisar, Haryana in that regard.

The present petition is disposed of accordingly.