

(2002) 01 AHC CK 0079

Allahabad High Court

Case No: C.M.W.P. No. 25411 of 1998

Virendra Singh

APPELLANT

Vs

Station Officer, P.S., Kabrai and
Others

RESPONDENT

Date of Decision: Jan. 30, 2002

Acts Referred:

- Arms Act, 1959 - Section 17, 18, 25
- Penal Code, 1860 (IPC) - Section 302

Citation: (2002) 2 AWC 1080 : (2002) 3 RCR(Criminal) 344

Hon'ble Judges: Anjani Kumar, J

Bench: Single Bench

Advocate: A.K. Singh and L.P. Singh, for the Appellant;

Final Decision: Allowed

Judgement

Anjani Kumar, J,

1. By means of the present writ petition under Article 226 of the Constitution of India, the petitioner has challenged the orders dated 15.12.1997 and 19.6.1998, Annexures-5 and 6 to the writ petition,- respectively, under the provisions of the Arms Act revoking the licence of his fire-arm.

2. Heard learned counsel appearing on behalf of the petitioner and learned standing counsel representing the respondents. On 2.5.1996, petitioner has been served with a show cause notice dated 8.4.1996 u/s 17 of the Arms Act and in reply thereto, he filed an objection stating therein that he was never involved in criminal case and he has not misused his gun as is alleged in the show cause notice. A case u/s 302. I.P.C. was registered at Kabral police station at Crime No. 44 of 1996 and police has challaned the petitioner. Further a case u/s 25 Arms Act has also been registered under Crime No. 46 of 1996. It is on the basis of the aforesaid F.I.R., the petitioner has been served with the aforesaid show cause notice. A perusal of the order of

revocation of the licence demonstrates that petitioner is a person connected with the crime referred to above and, therefore, he is not a person with whom the fire-arm should be retained in public interest. The appellate authority has also taken the same view, thus this writ petition.

3. The question as to whether mere involvement in a criminal case or pendency of a criminal case can be a ground for revocation of the licence under Arms Act has been dealt with by a Division Bench of this Court in [Sheo Prasad Misra Vs. The District Magistrate and Others](#), wherein the Division Bench relying upon the earlier decision in Masi Uddin v. Commissioner, Allahabad 1972 ALJ 573, found that mere involvement in criminal case cannot, in any way, affect the public security or public interest and the order cancelling or revoking the licence of fire-arm has been set aside. The present impugned orders also suffer from the same infirmity as was pointed out by the Division Bench in the above-mentioned cases. I am in full agreement with the view taken by the Division Bench that these orders cannot be sustained and deserve to be quashed and are hereby quashed.

4. There is yet another reason that during the pendency of the present writ petition, the petitioner has been acquitted from the aforesaid criminal case and at present, there is neither any case pending, nor any conviction has been attributed to the petitioner. In this view of the matter, the petitioner is entitled to have the fire-arm licence. The copy of Judgments and orders dated 24.1.2001 and 6.2.2001 passed by VI th Additional District and Sessions Judge, Hamirpur in Case Crime No. 44 of 1996 (S.T. No. 159 of 1996). u/s 302, I.P.C. and Case Crime No. 46 of 1996 (S.T. No. 160 of 1996). u/s 25 Arms Act have been annexed as Annexures-SA-1 and SA-2 to the supplementary-affidavit filed by the petitioner.

5. In this view of the matter, if there is nothing else which may disentitle the petitioner for renewal of his fire-arm licence, the respondents are directed to renew the fire-arm licence of the petitioner. The writ petition deserves to be allowed and is hereby allowed. The orders dated 15.12.1997 and 19.6.1998, Annexures-5 and 6 to the writ petition, passed by respondent Nos. 2 and 3 are quashed subject to the aforesaid directions.