
(2016) 01 RAJ CK 0105
In the Rajasthan High Court
Case No : Criminal Appeal No. 572 of 2014.

Banshi Lal

APPELLANT

Vs

The State of Rajasthan

RESPONDENT

Date of Decision : 12-01-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 452

Citation : (2016) 2 CriLR 688 : (2016) 1 RajCriC 390

Hon'ble Judges : Sandeep Mehta, J.

Bench : Single Bench

Advocate : M.K. Garg, Advocate, for the Appellant; Pankaj Awasthi, Public Prosecutor, for the Respondent

Final Decision : Allowed

Judgement

Sandeep Mehta, J. - The two appellants herein have approached this Court being aggrieved of the order dated 03.06.2014 passed by the learned Additional Sessions Judge No. 3, Bikaner rejecting separate applications submitted on behalf of the appellants under Section 452 of the Cr.P.C. and against the direction for confiscation of the licenced firearms owned by the appellants given by the learned trial Judge vide judgment dated 14.03.2014 passed in Sessions Case No. 133/2012.

2. Learned counsel for the appellants submits that the appellants were not arrayed as accused in the sessions case tried and decided by the trial court. The learned trial court directed confiscation of the appellants' licenced weapons without providing any opportunity of hearing to them. Therefore, the order under challenge is totally illegal and deserves to be set aside and the seized weapons be handed back to the appellants who are lawful owners thereof.

3. On the other hand, the learned Public Prosecutor submits that the matter be remanded back for fresh consideration of the appellants' claim.

4. On going through the order dated 14.03.2014 directing confiscation of the

firearms owned by the appellants, it is evident that the order of confiscation was passed without providing any opportunity of hearing or showing cause to the appellants. The appellants claim to be holding valid licences of the seized weapons and thus it was incumbent for the trial court to have heard them before passing the order of confiscation.

5. In view of the above discussion, the appeals are allowed. The order dated 03.06.2014 as well as order dated 14.03.2014 to the extent the firearms in question were directed to be confiscated are hereby set aside. The learned trial Judge is directed to consider and decide the applications submitted on behalf of the petitioners under Section 452 Cr.P.C. afresh as per law.

6. Record be sent back forthwith.