
(2013) 07 MP CK 0094
In the Madhya Pradesh High Court
Case No : W. P. No.8465 of 2012

Ganga Singh

APPELLANT

Vs

State of M.P.

RESPONDENT

Date of Decision : 10-07-2013

Acts Referred:

Penal Code, 1860 (IPC) — Section 294, 323, 506B

Citation : (2013) 07 MP CK 0094

Hon'ble Judges : S.K. Gangele, J

Bench : Single Bench

Advocate : Prashant Sharma, for the Appellant; Praveen Newaskar, Deputy Government Advocate, for the Respondent

Final Decision : Allowed

Judgement

S.K. Gangele, J.—Heard. This petition has been filed against the order dated 24-04-2012 (Annexure P-2), by which the District Magistrate, Bhind suspended the arms licence No. MP/Bhind/G/1/105/04B of the petitioner and also against the order dated 12-09-2012 (Annexure P-1). By the aforesaid order dated 12-09-2012 (Annexure P-1), appeal filed by the petitioner has been rejected.

2. An FIR was registered against the petitioner at Police Station Endori, District Bhind vide Crime No. 156/11. On the basis of the aforesaid FIR, the police registered an offence under Sections 323, 294 and 506-B of IPC. The charge-sheet has been filed against the petitioner. A copy of the FIR has been filed by the petitioner as Annexure P-4 alongwith the petition. It is mentioned in the FIR that at 5.30 in the evening when the complainant was sitting in front of his house, at that time the petitioner with other persons came to him and demanded money which was due to him and in that event the petitioner inflicted blow of lathi.

3. After filing of the charge-sheet, Superintendent of Police wrote a letter to the District Magistrate for suspending the arms licence of the petitioner and

thereafter District Magistrate issued a show cause notice to the petitioner and finally vide order dated 24-04-2012 (Annexure P-2) suspended the arms licence. It is mentioned in the order that because a criminal case has been registered against the petitioner, hence, it is not desirable and in public interest that the petitioner be permitted to keep the gun with him. The appellate authority also dismissed the appeal.

4. The offence registered against the petitioner is under Sections 323, 294 and 506-B of IPC.

5. From the perusal of the FIR, it is clear that the petitioner did not use his gun during the commission of offence. There is no allegation that petitioner had any other criminal antecedent.

6. Section 17(3)(b) of the Arms Act 1959 prescribes power of the licensing authority in regard to suspension of licence. u/s 17(3)(b) of the Arms Act 1959, licensing authority can suspend the licence. The relevant Section is as under:-

(b) if the licensing authority deems it necessary for the security of the public peace or for public safety to suspend or revoke the licence; or

7. The Division Bench of this Court in the case of Virendra Singh Vs. State of M.P. and Others,) has considered the fact of registration of criminal case in regard to suspension of arms licence and has held as under:-

9. The Full Bench of Patan High Court in the case of Kapildeo Singh Vs. State of Bihar and Others, has held as under in regard to revocation or suspension of arm licence, on account of registration of a criminal case:-

A strong note of caution, however, must be sounded in this context. It is not the pendency of any and every criminal case, which would inflexibly warrant the suspension or revocation of a licence validly granted. A criminal case may range from a paltry traffic offence to the most horrendous capital crime. Whilst the pendency of the former may hardly provide an adequate basis u/s 17(3), in the case of the latter after notice and hearing of the explanation such action may well become necessary. Equally the use or employment of the licensed weapon in the alleged crime might well of a relevant and added factor for consideration in the exercise of the discretion by the Licensing Authority. There is no gainsaying that licensed weapons are not to be allowed to degenerate into crime weapons.

On the basis of Full Bench decision of Patna High Court, it is clear that use or employment of the licensed weapon in the alleged crime, might be a relevant factor in deciding the revocation or suspension of arm licence.

10. In present case, there is no allegation or evidence against the appellant that he had used his gun in the commission of offence. The allegation against the appellant is that he along with other family members did not treat the deceased properly in the house, hence deceased committed suicide.

11. Learned Single Judge relied on the judgment of Division Bench of this Court

reported in Ram Kumar Sharma Vs. State of M.P. and Others, However, the aforesaid judgment is in regard to refusal to grant arm licence and in that case, three criminal cases were registered against the applicant.

8. Looking to the principle of law laid down by the Division Bench of this Court in Virendra Singh (supra) and also the judgment of Full Bench of Patna High Court, which is quoted by the Division Bench, in my opinion, it is not just and proper to suspended the arms licence of the petitioner because the ingredients mentioned in Section 7(3)(b) of Arms Act 1953 have not been made out against the petitioner. Hence, petition is allowed and the impugned orders dated 12-09-2012 (Annexure P-1) and dated 24-04-2012 (Annexure P-2) are quashed. No order as to costs.