
(2003) 02 P&H CK 0164
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 1438 of 1983

Mangal Singh

APPELLANT

Vs

Additional Commissioner, Ferozepur Division

RESPONDENT

Date of Decision : 05-02-2003

Acts Referred:

Citation : (2004) 1 AICLR 50 : (2004) 1 Cri.CC 129 : (2003) 4 RCR(Criminal) 422

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

Advocate : Mr. G.S. Dhillon, Advocate. Rajiv Malhotra, DAG Punjab., Advocates for appearing Parties

Judgement

H.S. Bedi, J. (Oral)

1. The petitioner was involved in a murder case registered against him vide FIR No. 60 dated February 27, 1980, Police Station, Faridkot. After trial, the petitioner was acquitted of the murder charge vide judgment dated September 20, 1980 (Annexure P5 to the petition). While the trial was yet pending, licence No. 480DM/Faridkot for the possession of a .32 bore revolver, issued by the District Magistrate, Faridkot to the petitioner, was suspended vide order dated January 15, 1980. After his acquittal, the petitioner moved an application before the District Magistrate, Faridkot that as he had since been acquitted, his licence should not be cancelled. The District Magistrate, however, vide his order dated March 17, 1982 (Annexure P2 to the petition) cancelled the licence issued to the petitioner. The petitioner filed an appeal against the aforesaid order which too was dismissed on June 1, 1982 by respondent No. 1 vide Annexure P4. It is against the orders Annexures P2 and P4 that the present writ petition has been filed.

2. A reply has been filed on behalf of the respondents and the facts pleaded by the petitioner have been admitted, but it has been pleaded that he was still not entitled to a licence.

3. When this case had earlier come up for hearing, an order had been made that the latest position be ascertained from the parties involved. Both the counsel present today have pleaded ignorance as to what had transpired after the year 1983 when the writ petition had been admitted.

4. I have heard the learned counsel for the parties and have gone through the record.

5. The operative part of the order (Annexure P2) reads as under :

"From the perusal of the copy of order dated 20.9.1980, filed by the licensee, it is apparent that he has been acquitted after giving him the benefit of doubt. It is apparent from the judgment that the prosecution has failed to present his case in a proper manner and could not render satisfactory motive leading to the murder. It also did not produce any proof about the injuries. Due to this, while giving him the benefit of doubt, the court acquitted him. It is obvious from this that though the licensee was acquitted, it cannot be said that he did not play any part or that the ammunition was not used. I fully agree that if the licensee was allowed to keep ammunition with him he will create some problem as it is his nature to fight with others. I have interrogated the licensee in depth. The licensee is a man of criminal nature and it is essential to cancel his licence for public safety and peace. Hence I cancel his license u/s 17 Arms Act."

6. This finding has been endorsed in appeal by the Additional Commissioner, Ferozepur while making the order (Annexure P4) in the following terms :

"I have heard the learned counsel for the appellant and have gone through the record. On behalf of the appellant, it has been argued that he was acquitted in the murder case and his arms licence could not be cancelled. I am, however, inclined to agree with the learned District Magistrate to that it is not safe to allow the arms licences to be retained by the appellant licensee. He had been accused in the murder case and the licence cannot be restored simply because he was given benefit of doubt and acquitted. Taking that view of the matter, I find no force in this appeal and the same is hereby dismissed."

7. It appears that both the officers have ignored the proviso to Section 7(7) of the Arms Act, 1959 which provides that "the licence of a licensee convicted for an offence under the Arms Act or the Rules made thereunder may be revoked on conviction, but if the conviction is set aside in appeal, the suspension or revocation would become void."

8. Admittedly this provision deals only when a conviction under the Arms Act and the Rules has been made thereunder, yet the broad principle is that a person found innocent on a criminal charge by a competent Court, can rightfully claim that he had not committed such an offence. I am of the opinion that the District Magistrate and the Additional Commissioner have not examined the matter in this perspective. The petition is accordingly allowed, the orders (Annexures P2 and P4) are set aside and it is directed that the matter would be reconsidered by

the District Magistrate in the light of the observations made in this judgment and the relevant statute within a period of six months from the date that a certified copy of this order is supplied to him. Dasti.