

(2011) 10 AHC CK 0053

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 40344 of 2011

Raj Prakash

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 14-10-2011

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 110, 340
Penal Code, 1860 (IPC) — Section 147, 149, 307, 323
Uttar Pradesh Control of Goondas Act, 1970 — Section 1, 3
Uttar Pradesh Police Officers of Subordinate Ranks (Punishment and Appeal) Rules, 1991 — Rule 17(1)

Citation : (2011) 3 ACR 3493 : (2011) 9 ADJ 641

Hon'ble Judges : Sudhir Agarwal, J

Bench : Single Bench

Judgement

Hon''ble Sudhir Agarwal, J.—Police is Police. None can police the Police. It can make wonders and miracles. Hardened criminals can be shown totally innocent. Similarly, totally innocent, honest and simple person may be depicted a hard core criminal. It can terminate hardened criminals in the name of encounter in the same manner as it can do by terminating a poor innocent person in the garb of encounter. It is for this reason at one point of time, i.e. about three decades ago, Apex Court (Hon''ble V.R. Krishna Iyer, J.) had observed:

Who can police the Police.

2. We all have no manner of doubt that Police constitute real backbone of State''s police power to maintain law and order but it is possible only when the agency work with real devotion and honesty to its constitutional and legal obligation instead of satisfying its petty materialistic demands. The case in hand is a real illustration to remind the off quoted statement of a very learned Judge of this Court long back that "U.P. Police is an organized gang of dacoits,..." though, the said observation was later on expunged. It appears that fact remains despite paper expunction.

3. I do not intend to condemn entire police force of the State but unfortunately the manner in which hierarchy from lower to highest has shown its apathy to correct erring officials and on the contrary their darity to go to the extent of supporting erring officials by even manufacturing documents has really surprised this Court.

4. The real complaint of the petitioner was so simple that it ought to have been redressed by the District Chief of Police, but not only it has travelled to this Court but in the zeal of justifying an admitted illegal action, the respondents have gone to the extent of preparing documents sometimes with back-dates making things more serious and complicated leaving no option to the Court but to place on record its anguish.

5. The petitioner Raj Prakash came to this Court raising his grievance that his fire-arm licence and weapon have been taken away by respondent No. 4 in the night of 12/13 July, 2011 illegally and despite his complaint to Senior Superintendent of Police, Ghaziabad, respondent No. 3 vide application dated 15.7.2011, none has shown any interest to redress his grievance. The petitioner also sent copies of letter dated 15th July, 2011 to Director General of Police, U.P., Chief Minister, U.P. besides others. The petitioner apprehended and may be rightly that his weapon, took away illegally by respondent No. 4, may be used for committing some crime and thereby to implicate the petitioner falsely therein. In such circumstances, he had no alternative but to approach this Court.

6. The brief facts the petitioner disclosed in the writ petition are that he is residing in outskirts of Village Niwari in the vicinity of his agricultural property District Ghaziabad. He possessed a firearm licence No. 194/August, 2010 which was granted on 23rd August, 2010 by District Magistrate, Ghaziabad. The petitioner also possessed a fire-arm namely Revolver 0.32 bore purchased by him from Fieldgun Factory on 2.2.2011 which was endorsed on the aforesaid licence.

7. At about 11.30 p.m. in the night of 12/13 June, 2011 when the petitioner was sleeping with his family, Sri Om Prakash Singh, Station House Officer, PS. Niwari, District Ghaziabad came to his house alongwith police party and knocked the door. The petitioner owing to late night refused to open the door. The respondent No. 4 threatened to break open the door forcibly as a result whereof petitioner opened the door of his house. The police people thereupon abused and beat the petitioner and directed to show his weapon and firearm licence. When shown, the same were taken by the Police headed by respondent No. 4 and petitioner was directed to come to the Police Station next day.

8. On 13th July, 2011, when petitioner went to the police station, respondent No. 4 gave him receipt of deposit of his weapon and firearm licence alongwith 12 cartridges. No reason was assigned by respondent No. 4 as to how and under what authority he had taken away firearm licence and weapon and has been deposited with the police.

9. When the two things were not returned, petitioner made a complaint to respondent No. 3 and a copy of complaint was endorsed to Home Minister, Chief Minister of the State as also Director General of Police but in vague. The writ petition was filed in the Registry on 19th July, 2011 and it was taken up on 21st July, 2011. This Court required learned Standing Counsel to explain under what authority fire-arm licence and weapon were taken away by respondent No. 4 and kept in police custody.

10. Learned Standing Counsel sought a short time to seek instructions and the matter was fixed for 26th July, 2011. On that day, learned Standing Counsel made a statement that fire-arm licence and weapon was taken away by respondent No. 4 entering the petitioner's house and he also could not dispute that this action of respondent No. 4 was illegal and unauthorized. He seeks a short time to file affidavit explaining relevant facts. This Court in the circumstances passed following order:

Pursuant to this Court's order dated 21.7.2011, learned Standing Counsel after receiving instructions admitted that respondent No. 4 S.H.O. Om Prakash Singh admittedly entered the petitioner's residence and took away his fire arm and license, etc. He also could not dispute that the aforesaid action of the S.H.O. was illegal and unauthorized. He further prays for and is allowed three days time to file an affidavit explaining these facts. He also stated that the fire arm and the license which were taken away from the petitioner have been returned to him, which fact has not been disputed by petitioner.

As prayed, put up this matter on Monday.

A copy of this order shall be made available to learned Standing Counsel today itself for communication to the respondent.

11. A counter-affidavit sworn by one Nirankar Singh, Circle Officer, Modinagar, District Ghaziabad was filed. It tried to stress upon the fact that petitioner has a long criminal history and several criminal cases are pending against him. Paras 7, 12 and 13 of the counter-affidavit read as under:

7. That it is relevant to mention here that petitioner is criminal in nature and many F.I.R. have been lodged against the petitioner and Criminal cases are pending against the petitioner.

12. That the contents of paragraph No. 5 of the writ petition are not admitted as stated, hence denied. It is submitted that there are Eight cases are registered against the petitioner which are as under:

(i) Case Crime No. 114/89 u/s 307 I.P.C. at Police Station Niwari.

(ii) Case Crime No. 93/90 under Sections 147/148/149/307 I.P.C. at Police Station Niwari.

(iii) Case Crime No. 33/92 u/s 356 I.P.C. at Police Station Sihane Gate.

- (iv) Case Crime No. 13/92 u/s 2/3 of Gangster Act at Police Station Niwari.
- (v) Case Crime No. 22/92 u/s 110 Cr.P.C. at Police Station Niwari.
- (vi) Case Crime No. 46/96 u/s 3/1 of U.P. Gunda Act at Police Station Niwari.
- (vii) Case Crime No. 38/96 under Sections 323/504 I.P.C. at Police Station Niwari.
- (viii) Case Crime No. 64/2000 under Sections 3/1 of Gunda Act at Police Station Niwari.

13. That the contents of paragraph Nos. 6 and 7 of the writ petition are not admitted as stated, hence denied. It is submitted that petitioner is a criminal and many criminal cases are pending against him. It is further submitted that petitioner has obtained the Fire-Arm Licence by concealing the material fact and mislead the authority concerned.

12. It also said that two complaints were received against petitioner lodged one by Sukkhan Khan, S/o Kale Khan, R/o Ward No. 5, Kasba & P.S. Niwari, District Ghaziabad and another by one Guruvud S/o Om Pal Singh R/o Village & Post-Paugi, P.S. Niwari, District Ghaziabad alleging that petitioner had threatened them to kill. These complaints were registered at P.S. Niwari, and, respondent No. 4 went for investigation at 11 a.m. on 13th July, 2011 to the house of petitioner for inquiry and took away fire-arm and licence which were deposited in Malkhana at 4.00 p.m. on 13th July, 2011.

13. The above counter-affidavit was controverted by petitioner in his rejoinder-affidavit. He pointed out that neither on the date when respondent No. 4 visited petitioner's house nor on the date when counter-affidavit was filed, nor even on the date when fire-arm licence was granted to the petitioner, any criminal case was pending for investigation or trial against him. In respect to 8 cases referred to in para 19 of counter-affidavit, petitioner stated that six have already resulted in acquittal long back vide Court's judgments dated 16.7.1993, 16.6.1995, 23.7.1997, 19.4.1999 and 13.6.2003. With respect to alleged complaints of Sri Guruvud and Sukkhan Khan, petitioner said that Guruvud S/o Om Pal Singh has given an affidavit that he did not make any complaint on 13th July, 2011 to the police as alleged in counter-affidavit and in respect to Sukkhan Khan, petitioner filed a copy of voter list showing that no such person is residing in ward No. 5 at all. He, therefore, contended that both these documents i.e. Annexure C.A.3 and 4 are forged and fictitious. He reiterated that fire-arm licence and weapon both were taken away by respondent No. 4 in the night of 12/13th July, 2011 when he visited petitioner's house at around 11.30 p.m. and receipt was handed over on the next date i.e. 13th July, 2011 when the petitioner alongwith some other villagers went to police station.

14. This Court initially was not inclined to go into the question of culpability or whether the petitioner is a history-sheeter or not but simply wanted to know whether respondent No. 4, in law, was authorized to take away fire-arm alongwith licence from lawful possession of a person concerned without there

being any order of the District Magistrate suspending the licence or directing for surrender of firearm or any other such order by the competent authority or when it was not seized as a case property under Code of Criminal Procedure. The Court also wanted to know that firearm, if as stated in the counter-affidavit, was taken in custody by respondent No. 4 pursuant to an investigation made in the two alleged complaints of Sri Sukkhan Khan and Guruvud, when he visited petitioner's house at 11 a.m. on 13th July, 2011, why it remained with him for almost five hours and could be deposited in Malkhana only in the evening around 4 p.m.

15. The learned Standing Counsel, when not able to reply above queries, sought time. This Court thus passed following order on 1st August, 2011:

Learned Standing Counsel admitted that fire-arm of the petitioner was taken away by respondent No. 4 and was kept in Malkhana but he could not tell under which provision and what authority it was seized or taken away by respondent No. 4. He also could not tell whether for this illegal and unauthorized act of respondent No. 4, any action was taken by respondent Nos. 1 and 3.

As requested, put up day after tomorrow i.e. 3.8.2011 to enable him to seek instructions in the matter.

16. A supplementary counter-affidavit sworn by Nirankar Singh, Circle Officer, Modinagar, District Ghaziabad on 2nd August, 2011 at 6.10 p.m. was filed. He appended two letters/orders of S.S.P. Ghaziabad. One is dated 14th July, 2011 said to have been issued by respondent No. 3 directing Sri Ajay Kumar, S.P., Rural, Ghaziabad to hold a preliminary enquiry against illegal action of respondent No. 4 of seizure of firearm and licence without any authority and submit report within five days. The second is the letter dated 1st August, 2011 whereby Sri Om Prakash Singh, Sub Inspector, Civil Police, S.H.O. Niwari, was placed under suspension under Rule 17(1)(a) of U.P. Police Officer of Subordinate Rank (Punishment & Appeal) Rules 1991 on the allegation of taken custody of firearm licence of petitioner without any reason. The endorsement No. 4 to the said suspension order is to S.P., Rural with reference to respondent No. 3's letter dated 14th July, 2011 directing him to submit preliminary enquiry report within three days.

17. This matter was heard by Court for some time on 5th August, 2011 and this Court prima facie found that counter-affidavit filed by Sri Nirankar Singh, Circle Officer on behalf of respondent Nos. 3 and 4 apparently contains false averments. The documents appended in the counter-affidavit on one hand show that alleged complaint of Sukkhan Khan refers to the threat allegedly extended by the petitioner at 11 a.m. on 13th July, 2011 near Holi Chowk and at the same time respondent No. 4 had claimed that after receiving this complaint, he proceeded for enquiry at 11 a.m. on 13th July, 2011. When the incident itself alleged to have taken place at 11 a.m. at some distance, it was wholly impossible that simultaneously after recording complaint, respondent No. 4 could have or

would have proceeded for investigation/enquiry in the matter at the same time i.e. 11 a.m. on 13th July, 2011 and to this extent the police record i.e. Rawangi and complaint both could not have been correct.

18. Besides, in respect to old criminal cases, counter-affidavit said that they are pending while six out of eight resulted in acquittal several years back and two cases were not connected to the petitioner yet it was stated in the counter-affidavit as if all these matters are still pending and petitioner is facing those criminal cases. The Court required respondents as also the deponent of counter-affidavit to explain these apparent inconsistencies in the counter-affidavit which demonstrates that counter-affidavit contained false statements.

19. Three affidavits thereafter have been filed; one is an affidavit dated 10th August, 2011 of Om Prakash Singh, the then Station House Officer, P.S. Niwari, District Ghaziabad respondent No. 4 in which he had reiterated the facts regarding alleged complaints of Sukkhan Khan and Gurved as also his visit of petitioner's house at 11 a.m. on 13th July, 2011. Nothing has been explained by him about the long time weapon remained with him without any authority. He has tried to, cast expulsion on the officers/officials on whose recommendation firearm licence was granted to the petitioner and has referred to two letters dated 13th July, 2011 and 19th July, 2011 sent to respondent No. 3 informing about seizure of firearm licence and weapon from petitioner and also recommending cancellation of licence. No dispatch number had been given in these two letters. There is no acknowledge, therefore it is difficult to ascertain receipt of the letters in the office of respondent No. 3. What is important is that he has filed a photo-copy of the affidavit filed by petitioner where in para 5 he has said, on 20th July, 2010 neither any case is registered in any Court nor he has been found guilty.

20. The respondent No. 4 claims that this part of affidavit is false but on a query of the Court, learned Standing Counsel could not tell as to which case was found registered on 20th July, 2010 against the petitioner. The six cases, which were registered between 1.9.1989 to 2000 already resulted in acquittal/discharge of petitioner and therefore they cannot be said to register against the petitioner and admittedly, it is not the case of respondents that petitioner was found guilty in any of those matters. The interesting aspect of this affidavit is that in para 8, respondent No. 4 admits that his action of taking away revolver from the petitioner is not backed by any order by the competent authority. Paras 8 and 9 read as under:

8. That it may be clarified that the conduct of the deponent while taking the revolver and bringing it to the police station though was not backed by any order of the competent authority but the action was taken in good faith so that a person of such bad repute must not have fire arm license, which he has obtained by manipulating the things. In fact, when a person applies for grant of license as per Rule, he is supposed to given an Affidavit clarifying regarding criminal cases. The petitioner has deliberately moved a false affidavit before the Licensing

Authority wherein he went to the extent of denying the registration of the criminal cases against him. For the sake of convenience the affidavit furnished by the petitioner for grant of fire arm license is being annexed herewith and marked as Annexure No. 3 to this Personal Affidavit.

9. That neither there was bad intention on the part of the deponent in taking away the revolver nor any arbitrariness has been done. The intention of the deponent was to verify the weapon and license and the circumstances in which it was granted as the deponent was apprehended that in case the weapon and license is not taken from the custody of the petitioner then he may try to flee with weapon etc. and will try to terrorize the complainants.

21. Sri Nirankar Singh, deponent of the counter-affidavit and supplementary counter-affidavit appeared before the Court in person and stated that he had no personal knowledge of the matter but had come to Allahabad in respect to some other matter when he was directed by respondent No. 3 i.e. S.S.P., Ghaziabad to swear a counter-affidavit and supplementary counter-affidavit in this case also and he complied the said order. He admits that he could not verify facts stated in the counter-affidavit. He also tenders unconditional apology for filing counter-affidavit with lapses and assured the Court that he shall check up proper facts before filing an affidavit in the Court in future. Paras 3 and 5 of his affidavit dated 12th August, 2011 read as under:

3. That in continuation of the oral undertaking given on behalf of the deponent, the deponent do hereby offers unconditional apology for the lapses done by him while filing counter-affidavit to the above writ petition.

5. That the deponent do hereby undertakes that in future he will take necessary precaution and will ensure that proper facts must be placed on record before the Hon"ble Court whenever any affidavit is sworn by him. The deponent further undertakes that he will not repeat the mistake in future.

22. Another affidavit has been filed by Sri Om Prakash Singh tendering his apology for the lapses.

23. Sri C.S. Singh, learned Additional Chief Standing Counsel also informed the Court that on 11th August, 2011 pursuant to petitioner's letter dated 15th July, 2011 a first information report being Case Crime No. 113 of 2011 has been registered at 1.30 p.m. against Sri Om Prakash Singh, Incharge Inspector, P.S. Niwari.

24. A photocopy of petitioner's letter dated 15th July, 2011 and photocopy of first information report show that District Magistrate marked it to S.S.P. i.e. respondent No. 3 with the endorsement on 18.7.2011. Thereafter the said letter was marked to C.O. Modinagar by respondent No. 3 on 27th July, 2011. It remained pending without any action for almost 15 days. On 11th August, 2011, when respondents found some trouble in the Court, it appears that this FIR was registered.

25. Learned Addl. C.S.C. despite repeated query could not defend action of respondent No. 4 in taking away petitioner's fire-arm licence and weapon. He also could not defend stand of respondent No. 4 that he proceeded for enquiry at 11 a.m. on 13th July, 2011 after receiving a complaint of Sukkhan Khan and Gurved of alleged threat rendered by the petitioner he could not explain that Sukkhan Khan, if complained to have alleged threat at 11 a.m. on 13th July, 2011 at some other place, how it is possible that simultaneously complaint could have been submitted in the police station and immediately thereupon respondent No. 4 could have proceeded for enquiry. This Court has no manner of doubt that general diary kept by respondent No. 4 in the police station has been manufactured by showing his Rawangi at 11 a.m. on 13th July, 2011 referring to the two complaints of Sukkhan Khan and Gurved. Whether these two persons actually made any complaint, whether they are real persons or not are not the matter need be enquired by this Court for the reason that reading Annexure C.A.4 i.e. alleged complaint of Sukkhan as also the general diary of police station showing respondent No. 4 Rawanagi (departure) at 11 a.m. on 13th July, 2011 it is evident that either Rawanagi timing is incorrect or time of incident mentioned in the complaint is incorrect. Since both the documents have been relied by respondent No. 4 in his defence to justify that firearm and licence were not taken away in the night but in day time and the two documents are self contradictory, I have no option but to infer that respondent No. 4's claim that he visited petitioner's premises in the day time on 13th July, 2011 is incorrect. The custody of two items namely licence and weapon is admittedly without any authority of law. This fact came to the notice of respondent No. 3 S.S.P. Ghaziabad admittedly when the petitioner's letter dated 15th July, 2011 was communicated to him. The documents produced by the respondents before this Court namely endorsement made on petitioner's letter to Circle Officer, Modinagar on 27.7.2011 shows that before that S.S.P. Ghaziabad had not reacted to the matter at all. He did not find anything wrong in the action of respondent No. 4. Meaning thereby police officials in District Ghaziabad are free and uncontrolled to do whatever they like, legal or illegal without any intervention from the District Superintendent who had the ultimate responsibility of controlling all these officials.

26. Inaction, in the circumstances, can be inferred to be deliberate. I am constrained to observe for the reason that letter dated 14th July, 2011 filed as Annexure 1 to the supplementary counter-affidavit said to have been issued by S.S.P., Ghaziabad directing S.P., Rural to hold a preliminary enquiry against respondent No. 4, in my view, is an anti-dated letter, to cover up lapses on the part of respondent No. 3. There are several reasons for this inference. In the counter-affidavit sworn on 13th July, 2011 by Sri Nirankar Singh on behalf of respondent Nos. 3 and 4, he has not referred to any such letter and on the contrary there is one dimensional effort that is to justify action of respondent No. 4. Therefore up to 30th July, 2011 there was no attempt on the part of respondent No. 3 either to treat anything wrong on the part of respondent No. 4

or to get any enquiry conducted in the matter. It is only when the respondents were confronted with a self contradictory incorrect or incomplete information contained in the counter-affidavit, demonstrated by the petitioner by filing a rejoinder affidavit on 1st August, 2011, that a letter of suspension was passed simultaneously and back dated letter was prepared and mentioned therein so as to create a defence that respondent No. 3 had already reacted to the situation and prompt action has been taken. Moreover the order dated 14th July, 2011 require the S.P., Rural to submit preliminary enquiry report within five days but no such enquiry report appears to have been submitted and that is why in the suspension order respondent No. 3 require S.P., Rural to submit preliminary report thereafter within three days.

27. In fact, this is inaction of respondent No. 3 which has compelled this Court to draw inference that illegal and anti public activities of Police are shielded and protected by superior officers either by total inaction or by creating documents, may be backdated or otherwise. It is this nexus of superior officers shielding subordinate's illegal and unauthorized action which has compelled this Court to make observation against police officers/officials in general.

28. From 21st July, 2011 and onwards the matter was heard by this Court on various dates. State of U.P. through Secretary (Home) was also a party. In law, there is presumption that learned Standing Counsel must have conveyed notice of the case to respondent No. 1 also, particularly when this Court prima facie found at some stage that a false affidavit has been filed and therefore an action u/s 340 Cr.P.C. may also be required against deponent of the counter-affidavit. But at no stage respondent No. 1 has shown to take any step enquiring as to how and in what circumstances such things are happening in the district concerned.

29. Police force is meant for protection of the people. Its sole aim and purpose is to maintain law and order by preventing crime and if committed, to find out and book the guilty person so as to get punished in accordance with law. There is no other agency in the State except the Police who has this statutory as well as constitutional obligation for protection of people. But unfortunately it is still living in the colonial State of affairs when Police used to be deployed against public to crush their genuine demands. The Police, at that time, reflected the glorified image of the ruling Colonial State. It treated inhabitants of the country as slaves and that is why always tried not to allow them to raise their voice against ruling empire. More than half a century India has attained its independence. Now is governed by Constitution given by the people to itself so as to function, "for the people", "by the people", "of the people" principle but the police has not mend its ways. Today the people are frightened more with police than the criminals. There is virtually a lack of confidence with this Uniformed Force. Judicial cognizance can be taken of several heinous crimes being committed almost daily and many a times with the nexus of politicians/criminals whereby common and innocent people are being made target. The criminality on the part of Police is

highly dangerous being a double edged weapon. When they commit crime, they are themselves being investigating agency, naively cover up the matter. The result is that the Courts of law ultimately ordinarily fail to punish guilty for want of proper evidence for which the agency is responsible. In criminal prosecution, eye and ear of the Courts of law, basically is the prosecuting agency, and when the agency itself is indulged in a cover up mission, it is almost impossible to bring guilty person to book and punish. Police officials have become so daredevil that they do not hesitate in committing day light and daring offences and thereby to stick to it, may be for the reason that they are well equipped with the system of covering it up. The situation is really alarming and needs immediate remedial measures. The public dissatisfaction and distress cannot wait indefinitely if it is not attended now. It may be too late in the day and may burst in a people's revolution we are witnessing in some other parts of the world.

30. In *Goodwill Paint and Chemical Industry Vs. Union of India and another*, where brutal behaviour of police in arresting and assaulting a Chief Judicial Magistrate of Nadiad was considered by the Court in contempt petition as well as writ petitions entertained directly. The Apex Court observed:

Aberrations of police officers and police excesses in dealing with the law and order situation have been the subject of adverse comments from this Court as well as from other Courts but it has failed to have any corrective effect on it.. (Para 39)

31. Hon''ble Krishna Ayer, J in *Prem Shankar Shukla Vs. Delhi Administration*, observed:

If today freedom of the forlorn person falls to the police somewhere, tomorrow the freedom of many may fall elsewhere with none to whimper unless the Court process invigilates in time and polices the police before it is too late.

32. In a concurring judgment in *Dhananjay Sharma Vs. State of Haryana and Others*, Hon''ble Faizan Uddin, J in para 58 observed:

58. It is in common knowledge that in recent times our administrative system is passing through a most practical phase, particularly, the policing system which is not as effective as it ought to be and unless some practical correctional steps and measures are taken without further delay, the danger looms large when the whole orderly society may be in jeopardy. It would, indeed, be a sad day if the general public starts entertaining an impression that the police force does not exist for the protection of society's benefits but it operates mainly for its own benefit and once such an impression comes to prevail, it would lead to disastrous consequences.

33. The Court took judicial notice in para 57 of the judgment that every morning one opens the news-papers and goes through its various columns, one feels very much anguished and depressed in reading reports of custodial rapes and deaths, kidnapping, abduction and faked police encounters and all sorts of other offences

and lawlessness by the police personnel, of which countless glaring and concrete examples are not lacking.

34. In *Daroga Singh and Others Vs. B.K. Pandey*, the Court remarked object with which the Police Force was created and said that police is the executive force of the State to which is entrusted the duty of maintaining law and order and of enforcing regulations for prevention and detection of crime. It is considered by society as an organised force of civil officers under the command of the State engaged in the preservation of law and order in the society and maintaining peace by enforcement of laws and prevention and detection of crime. One who is entrusted with the task of maintaining discipline in the society must first itself be disciplined. Police is an agency to which social control belongs and therefore the police has to come up to the expectations of the society.

35. Then it had reminded itself the policing role the country witnessed during British Raj and in para 44 the Court said:

44. We have not been able to forget the policing role of the police of British Raj wherein an attitude of hostility between the police and the policed under the colonial rule was understandable. It is unfortunate that in one of the largest constitutional democracies of the world the police has not been able to change its that trait of hostility.

36. Unfortunately, observation and expectations of Courts have gone in vain as the police force have not mend its ways. Most of the matters do not come to the Court and when somebody dares to take up the matter to the Court only then the extent to which the Police act ruthlessly and arbitrarily is experienced by the Courts also. The situation is really very grim and disappointing. It is high time when State should look into large spectrum of reforms to correct Police and policing in the State else the things may not rendered uncontrollable.

37. In view of the above, I have no manner of doubt in declaring action of taking away of petitioner's fire-arm licence and weapon by respondent No. 4 to be wholly illegal and arbitrary. However, considering the above discussion, the writ petition is disposed of with the following directions:

A. Chief Secretary, U.P. Lucknow shall look into the matter and find out involvement, dereliction and collusion of various officials of District Police, Ghaziabad and thereafter shall take such departmental and other action as provided in law within a period of three months and submit a progress report to this Court.

B. The petitioner shall be entitled to cost, exemplary in nature, for harassment and illegal action of the respondents to which he has made to suffer, which I quantify to Rs. 50,000/-. The aforesaid cost at the first instance shall be paid by respondent No. 1 but it shall be at liberty to recover the same from the officials concerned who are responsible after making such enquiry as directed above and provided in law.

C. This case shall be listed in the first week of February, 2012 only for the purpose of considering progress report as directed above but otherwise it stands disposed of.

38. Copy of this order shall be sent to Chief Secretary, U.P. at Lucknow by Registrar General forthwith for information and compliance.