

(2005) 12 AHC CK 0191

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 10181 of 2003

Rajoo Singh

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

Date of Decision : 09-12-2005

Acts Referred:

Penal Code, 1860 (IPC) — Section 379, 392, 504

Citation : (2005) 12 AHC CK 0191

Hon'ble Judges : Vineet Saran, J

Bench : Single Bench

Advocate : Shiv Singh Yadav and Amar Singh, for the Appellant;

Final Decision : Allowed

Judgement

Vineet Saran, J.—The petitioner was granted an arms license in the year 2000. By the impugned order dated 23.3.2002 the District Magistrate, Farrukhabad has suspended the license of the petitioner solely on the ground that the Superintendent of Police, Fatehgarh had, vide report dated 15.12.2001, reported that in case No. 140/92 under Sections 392/379/504 I.P.C. a charge sheet has been submitted against the petitioner. In the said order, it had also been stated that the petitioner is guilty of non-disclosure of material facts, as he did not disclose about the pendency of the said case in the application for grant of the license. Against the said order, the petitioner filed an appeal, which was dismissed by the Commissioner, Kanpur Region, Kanpur, respondent No. 2 vide order dated 17.12.2002. Aggrieved by the aforesaid orders dated 23.3.2002 and 17.12.2002 passed by respondent No. 5 and 2 respectively, the petitioner has filed this writ (sic) learned Standing Counsel appearing for the respondents. Although nearly two years have passed and despite the fact that on 5.3.2003 specific order was passed by this Court directing the respondents to annex copy of the charge sheet in case crime No. 140/92 under Sections 392/379/504 I.P.C. in which the petitioner is said to be named on the basis of which the petitioner's arms license has been suspended after a period of ten years, no counter affidavit

has yet been filed.

2. Alongwith the supplementary affidavit, the petitioner has annexed a copy of the charge sheet in case No. 140/92, in which the charges have been framed against one Chandra Shekhar alias Kallu and not against the petitioner. As such the very basis of the orders impugned in this writ petition does not appear to be correct. Even otherwise, the arms license cannot be suspended merely because of pendency of a criminal case, specially when the said case is to have been lodged more than ten years prior to passing of the impugned order. Further, merely because the petitioner had not disclosed about the criminal case (assuming that the petitioner was named in the said criminal case) would not amount to non-disclosure of material information as in the proforma application, as appended to the Rules framed under the Arms Act, the applicant is only obliged to inform as to whether he has been convicted in any case or not. In the present case, the respondents do not claim that the petitioner has ever been convicted by any court of law and as such, even if a criminal case had been lodged against the petitioner, he cannot be held guilty of non-disclosure of any material information.

3. For the foregoing reasons, the orders impugned in this writ petition are liable to be set aside. Accordingly, the orders dated 23.3.2002 and 17.12.2002 passed by respondent No. 5 and 2 respectively are hereby quashed.

4. This writ petition succeeds and is, accordingly, allowed. No order as to costs.