
(1984) 11 AHC CK 0080

In the Allahabad High Court

Case No : Civil Misc. Writ Petition No. 4010 of 1975

Raksha Pal Singh

APPELLANT

Vs

District Magistrate and Others

RESPONDENT

Date of Decision : 20-11-1984

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 107, 117
Penal Code, 1860 (IPC) — Section 323, 353

Citation : (1985) AWC 294

Hon'ble Judges : R.M. Sahai, J;J.N. Dubey, J

Bench : Division Bench

Advocate : V.S. Singh, for the Appellant;

Final Decision : Allowed

Judgement

1. By this petition a direction is sought to the opposite parties Nos. 2 and 3, namely, Superintendent of Police, Jbansi and Sri Umesh Chandra Mishra, S.O. Police Station Mauranipur, District Jbansi to return rifle and licence of the Petitioner deposited at police station. It is claimed that Petitioner who is a Sarpanch and respected member of Oacn Sabha was holding license No. 8169 for rifle No. 4946. This gun is stated to have been seized by opposite party No. 3, Station Officer, Police Station Mauranipur on 15-2-75 while Petitioner was going to attend a case u/s 107/117 Code of Criminal Procedure forcibly without any reason and in absence of any enquiry or order against him. It was not returned to him despite his requests and representations to the higher authorities. On the other hand effort was made to start criminal case against him. When the petition was presented on 11-4-75, the learned Standing Counsel was granted three weeks" time to file counter affidavit. But as no counter affidavit was filed, this Court directed opposite-party to return the gun to the Petitioner as there was no order from any authority directing suspension or cancellation of Petitioner?s license. The learned Standing Counsel has stated that the order passed by this Court has bee a complied. He has further informed that he had received

instructions from the State Government not to contest the petition.

2. Opposite party No. 3 has been impleaded in person and has been served. He has chosen to remain silent. The allegation that the rifle was snatched by opposite party No. 3 for no rhyme and reason and a false case u/s 323 and 353 IPC was started on the day the rifle was snatched on false report of a police constable remain uncontroverted. In absence of any material the inference is irresistible that Petitioner was victim of arbitrary action of opposite party No. 3. Those who are entrusted with responsibility of maintaining law and order cannot afford to act with gross irresponsibility and callousness.

3. In the result this petition succeeds and is allowed. As the rifle has already been returned no direction is needed. But opposite parties are restrained from taking any action against Petitioner on basis of taking over the rifle on 15th Feb. 1975.

4. As Petitioner has been made to rush to this Court unnecessarily due to arbitrary action of opposite party No. 3, the Petitioner is entitled to be compensated with cost which we assess at Rs. 1,000/- to be paid by opposite party No. 3 only. The amount shall be paid within two months from the date the order is produced before Superintendent of Police, Jhansi. On failure opposite party No. 3 shall get it deducted from salary of opposite party No. 3 and pay the same to Petitioner within a further period of two months.