

(2006) 01 AHC CK 0158

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 52686 of 2003

Sahab Singh

APPELLANT

Vs

Commissioner Agra Region, District Magistrate, Station House
Officer and Shyam Babu

RESPONDENT

Date of Decision : 25-01-2006

Acts Referred:

Penal Code, 1860 (IPC) — Section 147, 148, 149, 307

Citation : (2006) 01 AHC CK 0158

Hon'ble Judges : Vineet Saran, J

Bench : Single Bench

Advocate : N.S. Chahar, for the Appellant;

Final Decision : Allowed

Judgement

Vineet Saran, J.—The petitioner was granted an arms licence. On the basis of a report submitted by the police, on 19.8.2002, the petitioner was issued a show cause notice for cancellation of his [arms licence and his arms licence was also plated under suspension by the said order itself. The reply was submitted by the petitioner and on finding that the licence number mentioned in the order was wrong, the proceedings for cancellation were dropped vide order dated 9.9.2002 passed by the licensing authority. Thereafter again by order dated 28.9.2002. the gun licence of the petitioner was placed under suspension, and a notice to show cause was issued why his licence should not be cancelled. The petitioner submitted his reply to the said show cause notice and thereafter vide order dated 29.11.2002 passed by the District Magistrate, respondent no. 2, the arms licence of the petitioner had been cancelled. The appeal filed by the petitioner was party allowed and although the order dated 29.11.2002 passed the District Magistrate was set aside vide order dated 27.8.2003 passed by the Commissioner, Agra Region, Agra but. it was directed that the licence of the petitioner shall remain suspended till the decision in Criminal Case No. 124 of 2002 under Sections 147/ 148/ 149/307 I.P.C. Aggrieved by the aforesaid orders, the petitioner has filed

this writ, petition.

2. Heard learned counsel for the parties. Counter and rejoinder affidavits have been exchanged between the parties and With the consent of the learned Counsel for the parties, this writ petition is being disposed of at the admission stage itself.

3. Tin submission of the petitioner is That merely because of pendency of a criminal case, the arms licence of the petitioner cannot be cancelled. in support of the said submission, learned counsel for the petitioner has placed reliance on two decisions of this Court in the case of Hausla Prasad Tiwari v. State of U.P. (51) 2005 ACC 396 and Ishwar @ Bhuri v. State of U.P. 2004 (2) Jic 239. It has further been submitted that in view of the Full Bench decision of this Court in the cases of Balaram Singh v. State of U.P. and Ors. 1988 A.W.C.J. 1481 Kailash Nath and Others Vs. State of U.P. and Another, as well as the Division Bench decision of this Court in the case of Sadri Ram v. District Magistrate, Azamgarh and Ors. 1998 All. C.J. 1449, the arms licence of the petitioner cannot be placed under suspension pending enquiry.

4. Considering the fact that the petitioner has been acquitted in all other cases mentioned in the show cause notice except for the Case Crime No. 124 of 2002, in which the trial is going on and keeping in view the fact that merely because of pendency of a criminal case, the licence cannot be cancelled nor the licence can be placed under suspension pending enquiry, in my view, the orders impugned in this writ petition deserve to be quashed.

5. Accordingly this writ petition stands allowed. The orders dated 27.8.2003 and 29.11.2002 passed by respondent no. 1, the Commissioner, Agra Region, Agra and respondent no. 2, the District Magistrate, Agra respectively are quashed. There shall be no order as to costs.