
(2012) 05 MP CK 0014
In the Madhya Pradesh High Court
Case No : Writ Appeal No. 143 of 2012

Virendra Singh

APPELLANT

Vs

State of M.P. and Others

RESPONDENT

Date of Decision : 07-05-2012

Acts Referred:

Arms Act, 1959 — Section 17(3), 17(3)(a)
Penal Code, 1860 (IPC) — Section 306, 34

Citation : (2012) 4 MPHT 112

Hon'ble Judges : S.K. Gangele, J;Brij Kishore Dube, J

Bench : Division Bench

Advocate : Prem Singh Bhadauria, for the Appellant; Vivek Khedkar, Dy.
Advocate General for the State, for the Respondent

Final Decision : Allowed

Judgement

1. Heard. The appellant has filed this appeal against the order dated 5-3-2012 passed by learned Single Judge in Writ Petition No. 590/2011. The appellant has also challenged the orders dated 29-12-2010 and 12-10-2010 passed by the District Magistrate, Bhind and Appellate Authority, Commissioner, Chambal Division, Morena in regard to cancellation of arm licence.

2. An arm licence M.P./Bhind/G-1/221/2000-B was issued to the appellant on 29-12-2000. Thereafter, he purchased a 12 bore rifle on 4-9-2011. An offence u/s 306 read with Section 34 of IPC vide Crime No. 34/2008 at Police Station, Endori, District Bhind was registered against the appellant. He was released on bail in the aforesaid offence. Thereafter, In-charge, Police Station, Endori, District Bhind, vide letter dated 26-11-2009 requested the Superintendent of Police, District Bhind and the District Magistrate, Bhind for cancellation of arm licence granted to the appellant.

3. The Superintendent of Police, vide letter dated 4-1-2010 written to the District Magistrate, made a request to the authority to cancel the arm licence of the appellant, on the ground that an offence u/s 306 read with Section 34 of IPC,

vide Crime No. 34/2008 was registered against the appellant, hence, it was not in the interest of public to continue the arm licence in favour of the appellant. Thereafter, a show-cause notice was issued to the appellant. The appellant replied to the show-cause notice and submitted that the criminal offence registered against him was false and his daughter-in-law committed suicide. There was no use of gun in the offence, neither the appellant was involved in the offence. Initially, the District Magistrate suspended the arm licence of the appellant and thereafter, vide order dated 12-10-2010, the District Magistrate cancelled the arm licence of the appellant on the ground that a criminal case was registered against the appellant and the appellant did not deposit the gun after suspension of arm licence.

4. Against the order of cancellation, the appellant preferred an appeal before the Commissioner, Chambal Division, Morena. He pleaded that he had deposited the gun in pursuance to the order of suspension passed by the District Magistrate and the criminal offence registered against him u/s 306 read with Section 34 of IPC is not at all related to use of gun. He further pleaded that his daughter-in-law had committed suicide and he had been residing separately. Hence, he has falsely been implicated in the criminal case.

5. However, the Appellate Authority dismissed the appeal. Being aggrieved by the said order, the appellant preferred a petition before this Court, which was registered as Writ Petition No. 590/2011. The learned Single Judge, vide order dated 5-3-2012 dismissed the aforesaid writ petition on the ground that an offence u/s 306 read with Section 34 of IPC has been registered against the appellant and the offence is serious in nature, hence, arm licence of the appellant has rightly been cancelled.

6. We have perused the charge-sheet filed against the appellant in Crime No. 34/2008 for an offence punishable u/s 306 read with Section 34 of IPC. The criminal case has been registered against five persons, i.e., Phool Singh, Surendra Singh, Virendra Singh, Ramuna and Bhogi. The allegation against the appellant and other accused persons is that they had not treated deceased Laxmi properly, hence, she committed suicide. There is no allegation against the appellant that he had used his gun in commission of the offence. The offence has been registered against all the family members and the case is still pending, Except this offence, no other criminal offence has been registered against the appellant.

7. Section 17(3)(a) of the Arms Act, 1959 gives power to the Licensing Authority to suspend or revoke an arm licence on certain grounds. The relevant Section is as under:--

17(3)(a). The Licensing Authority may by order in writing suspend a licence for such period as it thinks fit or revoke a licence--

(a) if the Licensing Authority is satisfied that the holder of the licence is prohibited by this Act or by any other law for the time being in force from

acquiring, having in his possession or carrying any arms or ammunition, or is of unsound mind, or is for any reason unfit for a licence under this Act.

8. The Full Bench of Patna High Court in the case of Kapildeo Singh Vs. State of Bihar and Others, , has held as under in regard to revocation or suspension of arm licence, on account of registration of a criminal case:--

A strong note of caution, however, must be sounded in this context. It is not the pendency of any and every criminal case, which would inflexibly warrant the suspension or revocation of a licence validly granted. A criminal case may range from a paltry traffic offence to the most horrendous capital crime. Whilst the pendency of the former may hardly provide an adequate basis u/s 17(3), in the case of the latter after notice and hearing of the explanation such action may well become necessary. Equally the use or employment of the licensed weapon in the alleged crime might well be a relevant and added factor for consideration in the exercise of the discretion by the Licensing Authority. There is no gainsaying that licensed weapons are not to be allowed to degenerate into crime weapons.

On the basis of Full Bench decision of Patna High Court, it is clear that use or employment of the licensed weapon in the alleged crime, might be a relevant factor in deciding the revocation or suspension of arm licence.

9. In present case, there is no allegation or evidence against the appellant that he had used his gun in the commission of offence. The allegation against the appellant is that he along with other family members did not treat the deceased properly in the house, hence deceased committed suicide.

10. Learned Single Judge relied on the judgment of Division Bench of this Court reported in Ram Kumar Sharma Vs. State of M.P. and Others, However, the aforesaid judgment is in regard to refusal to grant arm licence and in that case, three criminal cases were registered against the applicant.

11. In the present case, only one criminal case for the offence u/s 306 read with Section 34 of IPC has been registered against the appellant. Another fact which has been mentioned by the District Magistrate in the order of revocation of arm licence that the appellant did not deposit the gun after suspension of arm licence, is contrary to the fact that the appellant already pleaded that he had deposited the gun at the police station concerned after suspension of arm licence.

12. Looking to the aforesaid facts of the case, in our opinion, the revocation of arm licence of the appellant on account of registration of Crime No. 34/2008, at Police Station, Endori, District Bhind, is contrary to law. Consequently, the appeal filed by the appellant is allowed. The order 5-3-2012 passed by learned Single Judge in Writ Petition No. 590/2011 and orders dated 29-12-2010 and 12-10-2010 passed by the District Magistrate, Bhind and the Commissioner, Chambal Division, Morena, are hereby quashed. The gun deposited by the appellant in pursuance to the revocation of arm licence, be returned back to him along with licence.

No order as to costs.