

Court No. - 50

Case :- CRIMINAL REVISION No. - 1559 of 2023

Revisionist :- Arif Hashmi Alias Aditya Arya

Opposite Party :- State of U.P. and Another

Counsel for Revisionist :- Manish Gupta, Prateek Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Ram Manohar Narayan Mishra, J.

1. This criminal revision has been filed against the order dated 30.1.2023 passed by learned Special Judge (SC/ST Act) Agra/ Additional Sessions Judge, Agra in Criminal Misc. Application No. 1115 of 2022 arising out of Case Crime no. 300 of 2021, under Section 30 of Arms Act, P.S. Sadar Bazar, District Agra by which the application for release of Arms DBBL Gun No. 24830-02 and NPB Revolver No. FG 11844 of the revisionist, has been rejected by the court below.

2. Heard learned counsel for the revisionist and learned AGA for the State.

3. Learned counsel for the revisionist submitted that this is admitted fact that revisionist is licensee holder of said firearms. The said firearms were seized from the possession of the revisionist by the police of P.S. Sadar Bazar, Agra with allegation that accused was frightening the informant of Crime No. 297 of 2021, under Sections 323, 307, 376, 377, 386, 392, 420, 427, 506 IPC and Section 3/5 of U.P. Prohibition of Unlawful Conversion of Religion Act by brandishing these firearms. However, said case registered vide Crime no. 297 of 2021 at P.S. Sadar Bazar on 3.7.2021 at the instance of prosecutrix, was decided on the basis of compromise vide order dated 3.3.2023 passed by this Court in Application u/s 482 No. 4669 of 2023 (Arif Hashmi @ Aditya Arya vs. State of U.P. and another). By order dated 3.3.2023 this court was pleased to quash the charge-sheet filed in that case as well as summoning order issued by the court below against the revisionist, therefore, these firearms are no longer case property of that case. The court below has dismissed the application for release of firearms on insufficient grounds which has now become non existence. The said firearms were acquired by the revisionist for self defense and no useful purpose is going to be served by keeping it in police custody for long period, which are also likely

to deteriorate their serviceability and efficacy.

4. Per contra learned AGA submitted that when the impugned order is passed, case crime no. 297 of 2021 lodged at the instant of the prosecutrix against the revisionist was subsisting and same was quashed by order of this Court vide order dated 3.3.2023, therefore, there is no apparent illegality or infirmity in the impugned order.

5. Considering the rival submissions of learned counsel for the parties and on perusal of order of this Court dated 3.3.2023 passed in Application u/s 482 No. 4669 of 2023, this is obvious that the very basis of seizure of concerned firearms has now become non-existent because the criminal case, due to which, said firearms were seized by the police from the possession of the applicant, has now been quashed by order of this Court on the basis of compromise arrived between the applicant and prosecutrix. The said firearms were acquired for self defense by the applicant, therefore, this fact is not denied that revisionist is licensed holder of the said firearms and there is force in the contention of learned counsel for the revisionist that efficacy and serviceability of firearms will be deteriorated in course of time by keeping these firearms in police custody. Moreover, no useful purpose is going to be served by keeping it in police custody without sufficient reasons. The learned court below has rejected the release application of the revisionist without appreciating the relevant facts of the case. Thus the impugned order is vitiated by legal error and same is not liable to be sustained.

6. The revision is allowed. The impugned order dated 30.1.2023 is set aside.

7. The court below is directed to pass appropriate order for release of said firearms subject to furnishing personal bond, surety to the satisfaction of the court concerned.

8. Let a copy of this order be forwarded to the court concerned for necessary compliance.

Order Date :- 28.10.2023

Dhirendra/