

Court No. - 16

Case :- MATTERS UNDER ARTICLE 227 No. - 3555 of 2024

Petitioner :- Mahant Bhagwati Prasad Chela Late Mahant Janki Das

Respondent :- State Of U.P Thru. Prin. Secy. Home Lko. And 4 Others

Counsel for Petitioner :- Vinay Misra, Amulya Pandey

Counsel for Respondent :- G.A.

Hon'ble Shamim Ahmed, J.

1. Heard Shri Vinay Misra, learned Counsel for the petitioner, Dr. V.K. Singh, learned Government Advocate assisted by Shri Ashok Kumar Singh, learned A.G.A-I for the State-respondent Nos. 1 to 5 and perused the material placed on record.

2. This Court vide order dated 05.08.2024 had passed the following order:-

"Heard Shri Abhijit Pandey, learned Counsel for the petitioner, Dr. V.K. Singh, learned Government Advocate assisted by Shri Ashok Kumar Singh, learned A.G.A-I for the State-respondent Nos. 1 to 5 and perused the material placed on record.

This Court vide order dated 01.08.2024 had passed the following order:-

"Heard Sri Abhijeet Pandey, learned counsel for the petitioner and Dr. V.K. Singh, learned Government Advocate assisted by Sri Ashok Kumar Singh, learned A.G.A.-I for the State as well as perused the record.

The instant writ petition has been filed seeking following main reliefs:-

"I. Issue an order or direction thereby setting aside the order dated 08.02.2024 passed in Criminal Revision No.964 of 2024 (Mahant Bhagwati Prasad Das Vs. State) by which the Criminal Revision so preferred by the petitioner against the order dated 08.01.2024 passed by the Additional Chief Judicial Magistrate, Room No.19 was rejected upon wrong ascertainment of facts, contained as Annexure No.1 to this petition, in the interest of justice.

II. Issue an order or direction thereby setting aside the order dated 08.01.2024 passed by the Additional Chief Judicial Magistrate, Room No.19, Sultanpur by which the application dated 16.05.2023 so preferred by the petitioner for providing him his license book in its original which was being illegally kept by the local police from the date of alleged occurrence till the present was rejected, contained as Annexure No.2 to this petition, in the interest of justice.

III. Issue an order or direction to the concerned authorities for providing to the petitioner original copy of the license No.298 on which his revolver bearing No. H3767 is entered and which presently is being illegally kept back by the police authorities for no valid rhyme and reason, in the interest of justice."

Learned counsel for the petitioner submits that the police of Police Station Kadipur, District Sultanpur had seized a revolver of the petitioner bearing No. H3767 with twenty live cartridges alongwith license book illegally and with arbitrary manner on the basis of a false case shown against the petitioner bearing Case Crime No.550/2021, under Sections 147, 148, 149, 307, 323, 504, 506 I.P.C. and Section 3/25/27/30 of Arms Act registered at Police Station Kadipur, District Sultanpur.

He further submits that the petitioner being aggrieved by the illegal action of the police of Police Station Kadipur, District Sultanpur filed a release application before the learned Additional Civil Judge (J.D.) / Judicial Magistrate, Court No.26, Sultanpur for release of the revolver bearing no. H3767 and 20 live bullets alongwith the license book. The learned Magistrate vide order dated 24.02.2023 released the aforesaid revolver bearing No. H3767 alongwith 20 live cartridges, 6 empty cartridge 32 bore and six wooden sticks with the condition that the petitioner shall give a surety of Rs.1,50,000/-. However, the license book of the petitioner was not released and no order was passed in the order dated 24.02.2023 by the learned Magistrate with regard to the license book.

He further submits that after the order dated 24.02.2023 was passed, the revolver no. H3767 alongwith 18 live cartridges and 6 empty cartridges 32 bore were released in favour of the petitioner by the police on 15.05.2023 in pursuance to the order dated 24.02.2023. However, the license book which was illegally seized by the police was not ordered by the learned Magistrate to be released. Thus, the petitioner moved an application before the learned Additional Chief Judicial Magistrate, Court No.19, Sultanpur on 16.05.2023 for release of the license book, which was seized by the concerned officer posted at that time at Police Station Kadipur, District Sultanpur. He further submits that the police to save their conduct have given false statement that they have not seized any license book whereas it was a clear cut plea taken by the petitioner that the said license book was misplaced from the Malkhana and arbitrarily the entry was not made in the records. Thus, the learned Additional Chief Judicial Magistrate, Court No.19, Sultanpur vide order dated 08.01.2024 rejected the application of the petitioner.

He further submits that against the aforesaid order dated 08.01.2024, the petitioner preferred a Criminal Revision before the learned Additional Sessions Judge, Sultanpur, which was also dismissed by the learned Revisional Court vide order dated 08.02.2024.

Thus, he submits that the findings recorded by the learned

Additional Chief Judicial Magistrate, Court No.19, Sultanpur as well as by the learned Revisional Court are perverse and without evidence on record as the petitioner has shown certified copy of the license book, which was filed alongwith the charge sheet by the Investigating Officer. A copy of the same is also filed as annexure no.21 of the affidavit filed in support of this petition, which was duly verified by the then Sub Inspector Vimal Kapoor, Police Station Kadipur, District Sultanpur with the stamp of the Police Station. Thus, it is crystal clear that the said license was with the police department and they after getting photostat copy of the license, filed it alongwith the charge sheet and the same was also part of the charge sheet. Thus, whatever the statement given before the learned trial court by the police that they had not seized license book, appears to be false and for misleading the court. He further submits that it is clear cut violation of Article 21 of the Constitution of India.

Accordingly, this Court is satisfied with the arguments as advanced by learned counsel for the petitioner that a conspiracy had been played by the police for misplacing the license book of the petitioner. The petitioner's license was earlier valid till 31.12.2018 and thereafter, it was extended till 31.12.2021, which contains the stamp of Police Station Kadipur, District Sultanpur on the photostat copy of the license. Thus, there is no doubt that the license book was with the police at the time of seizure and they filed the copy in the charge sheet as appears from the record.

Thus, it appears that the police want to unnecessarily harass the petitioner and they had misplaced the license book. As such, the act and conduct of the police of Police Station Kadipur, District Sultanpur appears to be very casual that shows the negligence and casual approach adopted by the police.

Accordingly, this Court deems it appropriate that the Superintendent of Police, Sultanpur and Station House Officer of Police Station Kadipur, District Sultanpur alongwith the then Sub Inspector of Police Vimal Kapoor, Police Station Kadipur, District Sultanpur shall appear in person alongwith their explanation and records before this Court to justify their conduct about the copy of license filed at the time of filing of chargesheet, which contained at annexure no.21 of the affidavit filed alongwith this petition.

Put up this case on 05.08.2024 before this Court for further orders.

Till the next date of listing, the effect and operation of the order dated 08.02.2024 passed in Criminal Revision No.964 of 2024 (Mahant Bhagwati Prasad Das Vs. State) as well as the effect and operation of the order dated 08.01.2024 passed by the learned Additional Chief Judicial Magistrate, Room No.19, Sultanpur shall remain stayed in respect of the petitioner.

This case shall be treated as tied up or part heard to this

Bench.

Let a copy of this order be provided to Dr. V.K. Singh, learned Government Advocate and Sri Ashok Kumar Singh, learned A.G.A.-I for the State for immediate onward communication to the Superintendent of Police, Sultanpur, Station House Officer, Police Station Kadipur, District Sultanpur and the then Sub Inspector of Police Vimal Kapoor, Police Station Kadipur, District Sultanpur to ensure their personal appearance before this Court alongwith their explanation on 05.08.2024.

Senior Registrar of this Court is also directed to communicate this order to the Superintendent of Police, Sultanpur immediately for necessary compliance."

In compliance of the order dated 01.08.2024 (quoted above) passed by this Court, the Superintendent of Police, District-Sultanpur, namely-Shri Somen Barma alongwith Station House Officer, Police Station-Kadipur, namely-Ashok Kumar Singh, and the then Sub Inspector posted at Police Station-Kadipur, namely-Vimal Kapoor are present before this Court in person.

Personal affidavits of all the officers present before this Court in person filed today by learned A.G.A.-I for the State-respondent Nos.1 to 5 are taken on record.

On query made by this Court to Superintendent of Police, Sultanpur regarding the laxity and misconduct on the part of his subordinates in the present case, on which he tendered unconditional apology and after perusing the photostat copy of the license book of the petitioner bearing License No.298/January/Sultanpur for Revolver No.H3767 duly attested and certified with Stamp of Police Station-Kadipur, District-Sultanpur and signed by the then Sub Inspector, namely-Vimal Kapoor, which was lastly renewed up to 31.12.2021, he submits that the same was deposited in the Maalkhana of Police Station-Kadipur, District-Sultanpur, this fact also been confirmed by the then Sub Inspector, namely-Vimal Kapoor but the license book got misplaced from the Maalkhana of Police Station-Kadipur, District-Sultanpur. He further stated that on the basis of one case bearing Case Crime No.550/2021, under Sections 147, 148, 149, 307, 323, 504, 506 I.P.C. and Section 3/25/27/30 of Arms Act registered at Police Station Kadipur, District Sultanpur the police of Police Station Kadipur, District Sultanpur had seized a revolver of the petitioner bearing No. H3767 with twenty live cartridges alongwith license book. He further stated that learned Magistrate vide order dated 24.02.2023 released the aforesaid revolver bearing No. H3767 alongwith 20 live cartridges, 6 empty cartridge 32 bore and six wooden sticks with the condition that the petitioner shall give a surety of Rs.1,50,000/-. However, the license book of the petitioner could not be released as it got misplaced by his subordinates posted at Police Station-Kadipur, District-Sultanpur.

He further stated that he has taken strict actions against the officials responsible for the misconduct and laxity and further assured this Court that a duplicate copy of the license book shall be provided to the petitioner on the next date of listing as the details of the original license book is already available with the Police Station-Kadipur, District-Sultanpur, which has also been annexed with the petition as Annexure No.21. He also

stated before this Court that the license book will be given to the petitioner after extending the due date up to 31.12.2024.

The then Sub Inspector, namely-Vimal Kapoor also made an agreement with the statements made by the Superintendent of Police, District-Sultanpur and submits that when the seizure was done by him, he deposited all the seized items with the In-charge of the Maalkhana of Police Station-Kadipur, District-Sultanpur but the license book got misplaced and rest of the articles/ammunition were returned back to the petitioner in compliance of the order dated 24.02.2023 passed by learned Additional Civil Judge (J.D.) / Judicial Magistrate, Court No.26, Sultanpur.

The Station House officer, Police Station-Kadipur, District-Sultanpur stated before this Court that after due investigation, he came to know that the said license book was deposited in the Maalkhana of the Police Station-Kadipur, District-Sultanpur but the same got misplaced from the Maalkhana of the concerned police station.

Dr. V.K. Singh, learned Government Advocate assisted by Shri Ashok Kumar Singh, learned A.G.A-I for the State-respondent Nos.1 to 5 also submit that as the officials concerned have tendered their apologies before this Court due to misconduct and laxity committed by them and assured this Court that they may be given some further time to prepare a duplicate license book of the petitioner with a renewed date up to 31.12.2024, which will be handed over to the petitioner on the next date of listing, thus, this court may grant them some time to prepare the same and hand it over to the petitioner on the next date fixed. They further submit that they will also assure that the officers concerned shall make all the endeavors to keep their assurances given by them to this Court.

After hearing learned Counsel for the parties, considering the assurances given by the officers present before this Court in person and after perusal of record, this Court finds that as it has been admitted by the officers concerned, that the license book of the petitioner got misplaced from the Maalkhana of Police Station-Kadipur, District-Sultanpur and the Superintendent of Police, District-Sultanpur has taken strict actions against his subordinates responsible for the misconduct and laxity, therefore, this Court does not want to express any opinion on the internal actions and investigations made by Superintendent of Police, District-Sultanpur in his capacity but this Court deems it proper to direct the officers concerned to provide the petitioner his license book, which is necessary for keeping a weapon and the misconduct and laxity on the part of police officials has resulted in violation of Article 21 of the Constitution of India.

Thus, the Superintendent of Police, District-Sultanpur alongwith Station House Officer, Police Station-Kadipur, District-Sultanpur is directed to prepare a duplicate copy of the license book of the petitioner with a renewed date up to 31.12.2024 and hand it over to the petitioner on the next date of listing.

Accordingly, list/put up this case on 12.08.2024 before this Court for further orders.

This case shall be treated as part heard and tied up to this Bench.

On the next date of listing, the petitioner, namely-Mahant Bhagwati Prasad Chela Late Mahant Janki Das, the Superintendent of Police, District-Sultanpur, namely- Shri Somen Barma alongwith Station House Officer, Police Station-Kadipur, namely-Ashok Kumar Singh, and the then Sub Inspector posted at Police Station-Kadipur, namely-Vimal Kapoor shall remain present before this Court in person.

Till the next date of listing, the effect and operation of the order dated 08.02.2024 passed in Criminal Revision No.964 of 2024 (Mahant Bhagwati Prasad Das Vs. State) as well as the effect and operation of the order dated 08.01.2024 passed by the learned Additional Chief Judicial Magistrate, Room No.19, Sultanpur shall remain stayed in respect of the petitioner."

3. In compliance of the order dated 05.08.2024 (quoted above) passed by this Court, the Superintendent of Police, District-Sultanpur, namely-Shri Somen Barma alongwith Station House Officer, Police Station-Kadipur, namely-Ashok Kumar Singh P.No. 092140051, and the then Sub Inspector posted at Police Station-Kadipur, namely-Vimal Kapoor P.No. 982462100 and the petitioner, namey-Mahant Bhagwati Prasad, son of Late Kashi Prasad Pandey, Chela of Late Shri Mahant Janki Das are present before this Court in person.

4. Compliance affidavit filed today by learned A.G.A-I for the State-respondent Nos.1 to 5 on behalf of respondent No.3 is taken on record. Paragraph Nos.2, 3 and 4 of the compliance affidavit filed on behalf of respondent No.3 are reproduced hereinunder:-

*"2. That it is respectfully submitted that in compliance of the order dated 05.08.2024 passed by the Hon'ble Court a second copy of the license book of petitioner bearing UIN Number 330270020986872015 License Number-LN 33027 A7 A 2 A 824 298/ KADIP-I having validity upto 31.12.2026 has been issued from the office of the District Magistrate, Sultanpur. A true copy of the second of license book is enclosed herewith as **Annexure No.1** to this affidavit for kind perusal of the Hon'ble Court.*

3. That it is respectfully submitted that in compliance of the order passed by the Hon'ble Court, the deponent will put his appearance before the Hon'ble Court on 12.08.2024 and a true second copy of the license book will be submitted before Hon'ble Court at the time of hearing.

4. That it is respectfully submitted that the deponent has highest regard to the orders passed by the Hon'ble Court and duty bound to obey any orders passed by the Hon'ble Court."

5. The Superintendent of Police, District-Sultanpur has produced the true copy of the second Arm License Book of Revolver bearing No.H3767 of the petitioner before this Court for its perusal and to be handed over to the petitioner in original with an extended validity up to 31.12.2026.

6. This Court perused the original second Arm License Book of Revolver bearing No.H3767 of the petitioner produced before this Court by the Superintendent of Police, District-Sultanpur and directed him to hand it over to the petitioner in original. Thereafter, the second Arm License Book of Revolver

bearing No.H3767 of the petitioner with an extended validity up to 31.12.2026 has been handed over to the petitioner, namely-Mahant Bhagwati Prasad, son of Late Kashi Prasad Pandey, Chela of Late Shri Mahant Janki Das in the open Court.

7. Learned Counsel for the petitioner as well as the petitioner, who is present before this Court in person submits before this Court that now the petitioner has no grievance to be redressed by this Court as he has got second Arm License Book of Revolver bearing No.H3767, thus, they submit that this petition may be disposed of in view of the above facts and circumstances of the case.

8. Dr. V.K. Singh, learned Government Advocate assisted by Shri Ashok Kumar Singh, learned A.G.A-I for the State-respondent Nos.1 to 5 also made an agreement with the submissions advanced by learned Counsel for the petitioner and submit that now the petitioner has no grievance and the same has been resolved by this Court with the best efforts of Superintendent of Police, District-Sultanpur, thus, they submit that this petition may be disposed of and the personal appearance of the officers present before this Court in person may be exempted till further orders of this Court.

9. After hearing learned Counsel for the parties and the parties who are present before this Court in person and after perusal of record, this Court finds that the Superintendent of Police, District-Sultanpur, namely-Shri Somen Barma has complied with the order dated 05.08.2024 in full spirit and has produced the second Arm License Book of Revolver bearing No.H3767 of the petitioner with an extended validity up to 31.12.2026 and the same has been handed over to the petitioner in the open Court today, thus, nothing remains to be adjudicated by this Court in this petition and the petitioner also submitted before this Court that he has no grievance left to be redressed by this Court.

10. Thus, in view of the above observations, this petition is hereby **partly allowed** and the order dated 08.01.2024 passed by Additional Chief Judicial Magistrate, Room No.19, Sultanpur is modified, accordingly.

11. It is further observed here that this Court is not passing any order on the misconduct and laxity on the part of the officers involved in this case and the Superintendent of Police, District-Sultanpur is at liberty to take appropriate action against the officers concerned, in accordance with law.

12. Personal appearance of the officers, who are present before this Court in person is exempted till further orders of this Court.

13. Consigned to record.

Order Date :- 12.8.2024

Piyush/-