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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of Decision: August 05, 2015

+ CRL.M.C. 3605/2012

HAFFIZUR REHMAN

..... Petitioner

Through: Ms. Anupriya Yadav and Mr.
Pradeep Teetia, Advocates.

versus

THE STATE (NCT OF DELHI) & ANR

.....Respondents

Through: Mr. Nishi Jain, Additional Public
Prosecutor.

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
(ORAL)

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The trial in FIR No. 241/2008 under Section 307/394/34 of IPC registered at PS Mandawali, Delhi ended in acquittal vide judgement of 26th August, 2010 wherein it is recorded that the case property be confiscated to the State. The case property is pistol of .32 bore. Vide order of 20th March, 2009 the Trial Court had directed that aforesaid pistol be released on *superdginama* to the petitioner as he was found to be the license holder of the pistol in question. But the said order was directed to be kept in abeyance as the weapon in question was under examination by Ballistics Expert regarding its functional test. In pursuance to Trial Court's order of 20th March, 2009, the City Magistrate (Arms),

Bulandshahar had submitted the report of 2nd January, 2012 vide which the licence of the pistol in question was renewed after an inquiry. On the strength of the aforesaid report from the concerned City Magistrate, petitioner filed an application of 4th April, 2012 seeking modification of the direction to confiscate the weapon in question as ordered in the judgement of 26th August, 2010. The said application stands dismissed vide impugned order of 1st September, 2012 while observing that the renewal of license of pistol in question took place on the basis of false report.

It is a matter of record that renewal of license of the pistol in question was upto the year 2011. During the course of hearing, a query was put as to on what basis the report was false and it has been disclosed that there is doubt in producing the weapon in question before the Licensing Authority when the license was got renewed by the petitioner.

Learned counsel for petitioner has sought to explain this by submitting that it was a lapse on the part of the Licensing Authority and the concerned City Magistrate has already ordered an inquiry in this regard and for this lapse on the part of the Licensing Authority, petitioner ought not to be made to suffer.

Upon hearing and on perusal of impugned order, status report and the report of 1st January, 2012 of the concerned City Magistrate, I find that petitioner is license holder of the pistol in question and on the strength of the aforesaid report of the City Magistrate of 1st January, 2012, the pistol in question deserves to be released to the petitioner after clearance is given by the Ballistics Expert regarding its working condition.

In the first instance, the pistol in question be released to petitioner on *superdari* after petitioner gives an undertaking to get the license of the said pistol renewed and thereafter produce the renewed license before the trial court and then only the pistol in question be finally released to petitioner.

With the aforesaid directions, this petition is disposed of.

A copy of this order be sent to the Trial Court forthwith.

(SUNIL GAUR)
JUDGE

AUGUST 05, 2015

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