

In the High Court of Punjab and Haryana at Chandigarh.

CWP No.1910 of 2014

Decided on 26.2.2016

Sukhpal Singh

--Petitioner

Vs.

State of Punjab and others

--Respondents

CORAM: HON'BLE MR.JUSTICE RAKESH KUMAR JAIN

Present: Mr.V.K.Sandhir, Advocate, for the petitioner

Mr. Suresh Singla, Addl.A.G, Punjab

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not ?
3. Whether the judgment should be reported in the Digest ?

Rakesh Kumar Jain,J: (Oral)

The petitioner has challenged the order dated 05.6.2013, passed by Addl. Deputy Commissioner, Mansa, dismissing the application of the petitioner for renewal of his arms license and order dated 25.9.2013 passed by the Commissioner, Ferozepur Division, by which appeal filed by the petitioner.

In brief, the petitioner was holder of an arms license bearing No.1148/D.M, SP Mansa of .12 bore Double Barrel Gun bearing No.30843-02 for a period of six years. The said license was suspended as the

petitioner was involved in a criminal case registered against him vide FIR No. 92 dated 03.6.2008 under Sections 341, 506, 323,427/34 IPC at Police Station, Sadar Mansa. The petitioner was acquitted by the Court of Addl.C.J.M, Mansa, vide order dated 13.8.2009. Thereafter, he filed an application for renewal of the license before the District Magistrate, Mansa, which was dismissed on 05.6.2013 on the ground that since the petitioner was involved in a criminal case in which he has not been honourably acquitted, therefore, license cannot be renewed/restored.

In the appeal, the respondents took another stand that the petitioner has been roaming around with his gun, causing serious threat to the public at large and on this report of the police, the license has been cancelled.

Learned counsel for the petitioner has argued that there is no evidence/complaint against the petitioner of intimidating anyone while carrying fire arm all the time. He has further submitted that the petitioner has been discriminated by the respondents as the arms license No. 1110/DM, P.S.Mansa of Gurcharan Singh son of Inder Singh, who was co-accused with the petitioner in the aforesaid FIR has been renewed after acquittal, but insofar as the case of the petitioner is concerned, his license No.1138/DM has not been renewed on the recommendation of SSP, Mansa.

Beside this, it is submitted that once the petitioner has been acquitted, whether on the basis of a compromise between the parties or otherwise, his acquittal has the effect of being not involved in that case. In this regard, learned counsel for the petitioner has relied upon two judgments, in the cases of **Krishan Chand Vs. State of Punjab**, 2003 (1) R.C.R. (Criminal) 166 and **Mangal Singh Vs. The Additional**

Commissioner, Ferozpur Division, 2003 (4) R.C.R.(Criminal) 422.

He has further submitted that the respondents, in order to get the case of the petitioner dismissed, has even wrongly translated the order dated 13.4.2013, in which in the English translation, the petitioner is stated to have been convicted whereas in the vernacular, it is rightly mentioned that he has been acquitted.

Learned counsel for the respondents has submitted that it was a case of an error, otherwise, there was no intention on the part of the District Magistrate to mislead this Court. It is further submitted that since the petitioner has not been honourably acquitted, beyond all doubts by the Court and the acquittal has been earned by way of compromise between the parties, his license has rightly not been renewed by the competent authority. Moreover, the report of the police is that the petitioner carries the weapon with him without any reason which causes a threat to the public at large. Therefore, the report has been made by the S.P Mansa not to allow the renewal of his license.

I have heard learned counsel for the parties and perused the available record with their assistance.

Provisions relating to licenses are given in Chapter III of the Act. Section 13 deals with the Grant of licenses; Section 14 deals with refusal of licenses; Section 15 deals with duration and renewal of license and Section 17 deals with variation, suspension and revocation of licenses. Section 17 (7) provides that “ *a Court convicting the holder of a license of any offence under this Act or the rules made thereunder may also suspend or revoke the license, provided that if the conviction is set aside on appeal or otherwise, the suspension or revocation shall become void ?*.”

This Court in the case of **Krishan Chand** (Supra) has held that acquittal of accused results in automatic nullification of order of cancellation. Law does not make any distinction between honourable acquittal and acquittal by giving benefit of doubt. In the said case, the petitioner was tried for offences under Sections 302, 148, 149 IPC read with Section 27/54/59 of the Arms Act, in which he was convicted for life imprisonment. On an appeal, the Division Bench of this Court set aside the judgment of conviction and acquitted the petitioner from charges by giving benefit of doubt.

Similarly, in the case of **Mangal Singh** (Supra), the petitioner faced the charges of murder. While trial was pending, his license for the possession of a .32 bore revolver was suspended. After his acquittal, the petitioner moved an application before the District Magistrate that as he had since been acquitted, his license should not be canceled but his license was cancelled on the analogy that the petitioner is a man of criminal nature and has been involved in a murder case. However, this Court while referring to Section 17 (7) of the Act, observed that once conviction has been set aside, the petitioner has to be considered an innocent person whose claim is to be considered for grant of license. In this background, the writ petition was disposed of and the matter was remanded back to the District Magistrate with the observations that he would take appropriate steps in the light of the observations made in the order.

In the present case, the offence against the petitioner in the aforesaid FIR No.92 dated 03.6.2008 was only under Sections 341, 506, 323,, 427/34 IPC, which means that the petitioner did not use the fire arm/gun for which he had the license and because of compromise between the

parties, earned acquittal. Moreover, this fact is not disputed by the respondents that in the case of similarly situated co-accused, license has been renewed, whereas in the case of the petitioner, it has been refused on the report of the S.P, Mansa, which is a clear case of discrimination.

There is no evidence brought on record that the petitioner is in the habit of moving around with the licensed gun causing a threat to the public at large. In the absence of any evidence in this regard, the plea taken by the respondents in the reply cannot be accepted.

For the reasons mentioned above, this petition is found to be meritorious and is hereby allowed. The impugned orders are set aside. The competent authority/District Magistrate, Mansa, is directed to renew the license of the gun of the petitioner within a period of one month from the date of receipt of a certified copy of this order.

26.2.2016**rr****(Rakesh Kumar Jain)****Judge**