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

+ LPA 44/2016

RAJ KUMAR PANDEY Appellant

Through: Ms. Urvashi Singh, Advocate.

versus

ADDITIONAL COMMISSIONER OF POLICE

& ANR

..... Respondents

Through: Mr. Naushad Ahmed Khan, ASC
and Mr. Manzar Ali, Advocate
along with SI Kamal Kishore,
Licensing, for the respondents.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MS. JUSTICE DEEPA SHARMA

ORDER

16.05.2017

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1. The appellant has preferred the present Letters Patent Appeal (LPA) to assail the judgment dated 29.09.2015 passed by the learned Single Judge in W.P. (C.) No. 8000/2013.

2. The said writ petition had been preferred by the appellant to assail the order dated 20.03.2013 passed by the Lieutenant Governor, Delhi acting as the Appellate Authority under Section 18 of the Arms Act, 1959, whereby the appeal preferred by the appellant had been dismissed against the decision dated 09.03.2012 passed by respondent No.1, i.e. the Licensing Authority under the Arms Act. The Licensing Authority by the order dated 09.03.2012 had rejected the application preferred by the appellant for grant of an arms license.

3. The appellant had sought arms license on the premise that he was

brutally attacked by some anti-social elements with intent to grab his property, and in the process, he has suffered grievous hurt, in respect whereof FIR No.314/2009 was registered and the said case is pending prosecution. He claimed that some anti-social elements continue to threaten him and they are coercing him into withdrawing the prosecution. He claimed that he was receiving threats and apprehended danger. Consequently, he had made an application for an arms license for his personal safety on 04.11.2011.

4. The application made by the appellant was rejected by respondent No.1/ Additional Commissioner of Police. His appeal was dismissed by the Lieutenant Governor by observing that the local police has not found any specific threat to the appellant. The concerned DCP had also called for a report, and it was found that the accused in the aforesaid FIR, who was earlier residing in the proximity of the house of the appellant, had shifted his residence and there was no apprehension of quarrel/ harassment between the accused and his wife on the one hand, and the appellant on the other hand.

5. In the writ proceedings, the respondents filed their counter-affidavit disclosing that the need expressed by the appellant for an arms license was not found to be genuine. It was also disclosed that as far as the threat perceived by the appellant from the accused in the aforesaid case is concerned, preventive action under Section 107/ 151 Cr.P.C. had been taken.

6. The learned Single Judge has referred to several decisions in the impugned judgment, wherein it has been held that the perception of threat experienced by a person is a question of fact which cannot be assessed by

the individual himself, and that the same has to be assessed by the investigating agencies. It is not even within the domain of a writ Court to consider whether a threat perception exists in respect of a particular person, or not. Reference was made to *Shiv S. Sharma Vs. Union of India*, MANU/DE/1024/2010, wherein it was held that the Court cannot foray into determining whether there is any threat to any individual, and the same is purely in the domain of executive functions and that the level/scale of perception is subjective.

7. Pertinently, after 2009, there is no recorded incident of the appellant being threatened or harmed by any person. In view of the settled position of law taken note of by the learned Single Judge in the impugned judgment, in our view, there is no merit in the present appeal and the impugned judgment does not call for interference.

8. The appeal is, accordingly, dismissed.

9. However, we direct that the SHO, PS – Vijay Vihar, New Delhi shall provide his mobile phone number, and the mobile phone numbers of the Beat Constables of the area to the appellant, and in case any calls are received from the appellant communicating any threat received by the appellant, the same shall be attended to without any delay.

VIPIN SANGHI, J

DEEPA SHARMA, J

MAY 16, 2017

B.S. Rohella