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**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP No. 19556 of 2016
Date of Decision: 12.01.2018**

HARNEK SINGH

.....Petitioner

V/S

STATE OF PUNJAB AND OTHERS

.....Respondents

CORAM: HON'BLE MR. JUSTICE RAKESH KUMAR JAIN.

Present: Mr. H.S. Bajwa, Advocate,
for the petitioner.

Mr. H.S. Sitta, AAG, Punjab.

RAKESH KUMAR JAIN, J. (Oral)

The petitioner has been possessing arms licence for 12 Bore DBBL Gun since 1979 and had applied for licence for 32 Bore revolver in the year 2005 which was sanctioned. He applied for renewal of arms licence on 10.12.2015 as it was valid upto 31.12.2015. The said application was declined vide order dated 15.01.2016 by the District Magistrate, Shaheed Bhagat Singh Nagar.

The said order was challenged by the petitioner by way of an appeal before the Commissioner, Rupnagar Division, Rupnagar which was allowed vide order dated 27.05.2016 and the matter was remanded back to the District Magistrate, Shaheed Bhagat Singh Nagar to decide afresh. Accordingly, District Magistrate, Shaheed Bhagat Singh Nagar again declined the request of the petitioner vide order dated 09.08.2016 which was further challenged by the petitioner by way of an appeal before the

Commissioner, Rupnagar Division, Rupnagar but remained unsuccessful as it was dismissed on 09.09.2016.

Learned counsel for the petitioner has submitted that the arms licence was not renewed only on the pretext that some criminal case is pending against the petitioner, much less, FIR No. 121 dated 07.12.2012 under Sections 498, 406 IPC, registered at Police Station Bilga, Jalandhar.

After notice, the respondents have filed an additional affidavit dated 13.12.2017 of Amit Kumar, District Magistrate, Shaheed Bhagat Singh Nagar in which he has made the following averments: -

“That the petitioner has filed the replication in the Hon’ble Court that in FIR No. 140 dated 23.08.2000, PS-Banga, he was the complainant and that the reply filed by the State is incorrect and he has been acquitted in all cases except FIR No. 121 dated 07.12.2012, PS-Bilga. After receiving the report of SSP, SBS Nagar the then District Magistrate Vipul Ujwal, filed reply by way of affidavit in the Hon’ble Court that in FIR No. 140 dated 23.08.2000, u/s 323, 324, 326, 341 IPC PS-Banga, petitioner was convicted and in FIR No. 121 dated 07.12.2012 u/s 498, 406 IPC, PS-Bilga, District Jalandhar the case is under trial. In cases FIR No. 66 and FIR No. 23 the petitioner was acquitted. Now, the fresh report of the SSP, SBS Nagar dated 16.11.2017 has been received who reported that criminal cases bearing FIR No. 66 dated 11.09.1992, under Section 323/325/341 of IPC, PS-Banga, District SBS Nagar. In this case Harnek Singh (petitioner) was acquitted by the Court of Sh. Surinder Mohan, JMFC Nawanshahr on dated 20.05.1993. In FIR No. 140 dated 23.08.2000 u/s 323/324/326/341/307 IPC, PS-Sadar Banga which was got

registered by Harnek Singh against Santokh Kumar and Sarabjit Singh and others. In this case, on 24.08.2000, on the statement of Harjit Singh Son of Nasib Chand, resident Gunachaur, a cross case was registered against Harnek Singh, Sukhdev Singh, Satnam Singh and others u/s 326/324/323/34 IPC, in which he was arrested on 04.10.2000 and subsequently, during the course of inquiry conducted by the Superintendent of Police (H.Q.) Nawanshahr, Harnek Singh was declared as innocent. In FIR No. 121, dated 07.12.2012 u/s 498-A/406/494,120-B of IPC, PS-Bilga, Police District Jalandhar Rural, in this case Harnek Singh (petitioner) was acquitted on 28.10.2017. In FIR No. 23 dated 13.03.2013 u/s 302,120-B,34 IPC, PS-Mukandpur. Harnek Singh (Petitioner) was acquitted by the Court of Sh. B.K. Mehta, Sessions Judge SBS Nagar on dated 14.08.2014”

The averments made in the said affidavit have not been denied by the learned State counsel. Learned counsel for the petitioner has submitted that since the petitioner has been either acquitted or discharged in all the FIRs, therefore, no criminal case is pending against him.

I have heard learned counsel for the parties and after examining the record, am of the considered opinion that there is merit/substance in the submissions made by the learned counsel for the petitioner because the appeal file by the petitioner which was dismissed vide order dated 09.09.2016 by the Commissioner, Rupnagar Division, Rupnagar on the ground that a criminal case vide FIR No. 121 dated 07.12.2012 under Sections 498, 406 IPC, registered at Police Station Bilga, Jalandhar, was

pending trial against him in which the petitioner has been acquitted on 28.10.2017.

Consequently, the writ petition is allowed and the impugned orders are hereby set aside and a direction is issued to the District Magistrate, Shaheed Bhagat Singh Nagar to consider and decide the application of the petitioner within a period of one month from the date of receipt of certified copy of this order, in the light of the observations made by this Court and also in view of the fact that there is no criminal case pending against the petitioner.

January 12, 2018

Ess Kay

(RAKESH KUMAR JAIN)
JUDGE

<i>Whether speaking / reasoned</i>	:	✓ Yes / No
<i>Whether Reportable</i>	:	Yes / No