

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

CWP-24493-2018 (O&M)
Date of decision : 25.01.2019

Munesh Devi

...Petitioner(s)

Versus

State of Haryana and others

...Respondent(s)

CORAM: HON'BLE MR. JUSTICE JITENDRA CHAUHAN

Present: Mr. Vipul Joshi, Advocate for the petitioner(s).

Mr. Vikrant Pamboo, DAG, Haryana.

JITENDRA CHAUHAN, J. (Oral)

Prayer in the instant petition is for issuance of a writ of Certiorari for quashing the order dated 14.07.2016 (Annexure P-1), passed by respondent No.3-District Magistrate, Jhajjar, whereby, the Arms Licence issued to the petitioner was revoked on the ground that her husband allegedly misused the licensed weapon and order dated 08.08.2016 (Annexure P-2), passed by respondent No.2-Divisional Commissioner, Rohtak Division, Rohtak whereby, the appeal preferred by the petitioner has been dismissed.

It is contended that the Arms Licence issued to the petitioner has been revoked on untenable grounds by the District Magistrate under Section 17(3) of the Arms Act, to maintain law and order. The allegation that the firearm in question was misused by her husband is falsified from the perusal of charge-sheet issued against him for having been found in

possession of one country-made pistol and four live cartridges. Further contends that revocation of arms licence has to be done strictly in accordance with the provisions of Section 17(3) of the Arms Act and the same cannot be ordered without positively appreciating the relevant material which may justify such revocation. It is submitted that an individual dispute between two parties cannot be equated to endangering the peace and safety of the public at large. It is also mandatory for the concerned authority to record a specific finding as to how the possession of Arms Licence by the licensee is likely to endanger the 'public peace'. Lastly, learned counsel submits that the criminal antecedents of the petitioner's husband are no ground to revoke the licence of the petitioner. Cites ***Guraddita Singh Vs. State of Punjab and others, 1991(2) Cur LR (CCR) 184; Mahender Singh Vs. State of Haryana and others, 2012 (5) R.C.R. (Civil) 580; and Rama Khushwaha Vs. State of U.P., 2011(89) ALR 333.***

On the other hand, learned State counsel submits that husband of the petitioner is a habitual offender and facing criminal proceedings in a number of cases. In view of the police report against the husband of the petitioner and in the interest of justice, the Arms Licence of the petitioner was rightly cancelled.

Heard.

This Court had passed the following order on 18.01.2019:-

“Learned State counsel upon instructions from Bupinder Kumar, Superintendent, office of D.C. Jhajjar, Haryana apprises the Court that the husband of the petitioner is a habitual offender and is facing criminal proceedings in a number of other cases and the details of

which are as follows:-

- 1. FIR No.62 dated 08.03.1998, under Section 61/1/14 Excise Act, P.S. Beri (Jhajjar).*
- 2. FIR No.272 dated 13.09.2000 u/s 25/54/59 Arms Act, P.S.Sadar Rohtak.*
- 3. FIR No.294 dated 16.5.2003 under Section 25/54/59 Arms Act, PS City Rohtak.*
- 4. FIR No.196 dated 13.10.2004 under Sections 148,149,323,307,456 IPC and 25/54/59 Arms Act, PS Sadar Rohtak.*
- 5. FIR No.254 dated 02.07.2009 under Sections 341, 302 IPC and 25/54/59 Arms Act, PS Sadar Bhiwani.*

Counsel representing the petitioner seeks a short accommodation to complete instructions in such regard. List on 25.01.2019.

To be shown in the urgent motion list.”

Learned State counsel has placed on record a communication dated 24.01.2019, addressed to the Advocate General Haryana, Chandigarh by District Magistrate, Jhajjar, which is taken on record as Mark 'A'. The communication dated 24.01.2019 reads as under:-

“It is submitted that the subject noticed CWP is fixed for hearing on 25.01.2019 before the Hon'ble Punjab & Haryana High Court, Chandigarh. As per report received from Superintendent of Police, Jhajjar, Rohtak and Bhiwani vide their letter No.4284 dated 24.01.2019, No.3847 dated 24.01.2019 and 2034 dated 23.01.2019 (Copies enclose) respectively, the status report in FIRs mentioned in the order dated 18.01.2019 passed by the Hon'ble High Court is as

under:-

- 1. FIR No.252 dated 03.09.2012 u/s 364 IPC & 302/201 IPC added PS Beri. Accused Ankit @ Monu s/o Azad, Sandesh S/o Dharambir, Ravinder @ Boda s/o Ajeet, Deepal @ Khillu S/o Ajeet r/o Dighal and Anil Malik S/o Guranam r/o Mohan Nagar Kurukshetra were arrested and challan of the case put up in the Hon'ble Court which is under trial and proceeding stayed by the Hon'ble Punjab & haryana High Court.*
- 2. FIR No.62 dated 08.03.1998 u/s 61/1/14 Excise Act is stands registered in PS, Beri. During the investigation accused Surjeet S/o Satbir, Rambir S/o Dharamchand and Deepak alias Khillu S/o Ajit R/o Dighal were arrested and challan of the case has been submitted in the Hon'ble Court which is under trial.*
- 3. FIR No.294 dated 13.09.2000 u/s 25/54/59 Arms Act, PS City, Rohtak. Accused Sh. Deepak alias Khillo S/o Ajit Singh r/o Dighal was arrested on 16.01.2003 who had been acquitted by the Court of Sh. Narender Sharma, JMJC, Rohtak.*
- 4. FIR No.272 dated 03.09.2000 u/s 25/54/59 Arms Act, PS Sadar, Rohtak. Accused Sh. Narender was arrested on 4.9.2000 who had been acquitted by the Court of CJM Rohtak.*
- 5. FIR No.254 dated 02.07.2009 under Section 341, 302 IPC and 25/54/29 Arms Act, PS Sadar Bhiwani found registered against Gaini Ram s/o Mohar Singh etc 12 accused all resident village Dinod District Bhiwani."*

Learned State counsel has pointed out that the weapon in question has already been deposited with the concerned arms dealer and there is no threat to the life of the petitioner. It cannot be said that there is

no relevant material which may justify the revocation of the arms licence of the petitioner, rather the Court feels that the competent authority in the fitness of things, for the security of the public peace and for public safety rightly revoked the licence. It is well settled that it is for the licensing authority to look into the threat perception and to watch the public safety. The petitioner cannot derive any benefit from the case law referred to above as the same are distinguishable on facts. In *Rama Kushwaha (supra)*, the appellate authority while dismissing the appeal held that the husband had used the weapon of his wife illegally, whereas such findings were wrong on the face of the report, wherein such fact was not mentioned. However, in the present case, considering the nature of the criminal cases pending against the husband of the petitioner, two cases were registered under Section 25 of the Arms Act. A perusal of Annexure P-6 would reveal that charges under Sections 362, 302, 201, 216, 218 read with Section 34 IPC and Section 25 of the Arms Act were framed and it has been specifically mentioned that from the husband of the petitioner one country made .32 bore pistol and 4 live cartridges were recovered which he had kept without any arms licence. The said case is said to be pending. Therefore, the presumption of misusing the licenced arm of the petitioner by her husband cannot be ruled out. The apprehension of the authorities of misusing the armed licence of the petitioner by her husband is, therefore, based on sound reasoning and appreciation of relevant material by the competent authority in the right perspective. No fault can be found with the findings recorded by the authorities in revoking the arms licence.

Even the judgment rendered in *Guruddita Singh (supra)* is not applicable to the facts of the present case. In the said case, the apprehension recorded by the authorities in revoking the arms licence was on account of some individual dispute (land dispute) which according to the authorities may lead to endangering the public peace. However, in the present case, a number of cases against the husband of the petitioner are pending adjudication before the trial Court and one case pertains to Section 302 IPC wherein husband of the petitioner had allegedly used a unlicensed firearm and therefore, the apprehension of the authorities of breach of public peace or public safety cannot be said to be misplaced.

In **Mahender Singh's case (supra)**, this Court disposed of the petition with a liberty to make a representation before the authorities for renewal of arms licence on the ground that the order passed by the authorities are silent with respect to threat or safety of the society. However, in the present case, the facts are sufficient to hold that there may be a threat or endangering the safety of the society at large in view of the antecedents of the husband of the petitioner.

In view of the above discussion, this Court does not find any merit in the instant petition and the same is accordingly dismissed.

25.01.2019
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(JITENDRA CHAUHAN)
JUDGE

Whether speaking / reasoned :	Yes	No
Whether Reportable :	Yes	No