

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.4958 of 2019

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Gurucharan Nath Tiwari, Son of Ramraj Nath Tiwari, Resident of Village-
Chitakhhol, P.S.- Guthani, Dist.- Siwan.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, General Administration,
Government of Bihar at Patna.
2. The Divisional Commissioner, Saran Division at Chapra.
3. The District Magistrate, Distt. Siwan.
4. The Superintendent of Police, Dist.- Siwan.
5. The District Arms Officer, Dist.- Siwan.
6. The Sub Divisional Officer, Distt. Siwan.
7. The S.H.O. Police Station Guthani Dist.- Siwan.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr.Ranjan Kumar Dubey
For the Respondent/s : Mr.Manish Kumar (Gp4)

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

3 11-07-2022 The present petition has been filed seeking quashing

of the order dated 02.01.2018, passed by the District Magistrate,

Siwan in Arms case no. 10 of 2011-12, whereby and whereunder

the said case has been dismissed for default on account of non

appearance of the petitioner/ his Counsel as also for quashing

the order dated 16.11.2018, passed by the learned

Commissioner, Saran Division at Chapra in Arms Appeal no.

201 of 2018. The petitioner has also challenged the order dated

24.07.2018, passed by the District Magistrate, Siwan, whereby

and whereunder the restoration petition filed by the petitioner



has been dismissed. Lastly, the appellate order dated 16.11.2018, passed by the learned Commissioner, Saran Division at Chapra in Arms Appeal no. 201 of 2018 has also been assailed, whereby and whereunder the learned Commissioner has refused to admit the case for hearing.

The learned counsel for the petitioner has submitted that on account of certain cogent reasons and on account of the petitioner being ill, he could not appear before the learned court of District Magistrate, Siwan on the date so fixed in the said case bearing Arms Case no. 10 of 2011-12, consequently the same was dismissed for default by an order dated 02.01.2018, however, it is submitted that the petitioner/ his Counsel undertakes to appear before the learned court of District Magistrate, Siwan on each and every date, so fixed in the said Arms Case no. 10 of 2011-12 and in case of any default on the part of the petitioner to appear before the District Magistrate, Siwan even on one occasion, the said case may be dismissed for default and the petitioner shall not file any restoration petition.

Per contra, the learned counsel for the respondent-State has though vehemently opposed the prayer of the petitioner for restoration of the aforesaid Arms Case no. 10 of 2011-12 but has submitted that in case, the petitioner approaches



the District Magistrate, Siwan in the aforesaid Arms case no. 10 of 2011-12, he shall be granted opportunity of hearing and then appropriate order shall be passed, in accordance with law.

Having regard to the facts and circumstances of the case, I deem it expedient in the interest of justice and equity to quash the appellate order dated 16.11.2018, passed by the learned Commissioner, Saran Division at Chapra in Arms Appeal no. 201 of 2018, the order dated 02.01.2018, passed by the District Magistrate, Siwan in Arms case no. 10 of 2011-12 and the order dated 24.07.2018, passed by the District Magistrate, Siwan in Misc. case no. 401 of 2017-18. Consequently, the Arms case no. 10 of 2011-12 is restored to its original file and the District Magistrate, Siwan is directed to grant an opportunity of hearing to the petitioner, adjudicate upon the application of the petitioner and pass final orders on merits expeditiously, however it is made clear that in case, the petitioner/ his Counsel defaults in appearing before the learned court of District Magistrate, Siwan, even on one occasion, the said Arms case no. 10 of 2011-12 shall stand dismissed for default and the petitioner would not be liable to restore the same.



The writ petition stands allowed to the aforesaid
extent.

(Mohit Kumar Shah, J)

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