

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

204

CWP No.21174 of 2017

Date of Decision: 31.08.2022

RAM SINGH

.....Petitioner

Vs

STATE OF PUNJAB & ORS

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Rajat Dogra, Advocate
Mr. K.S. Brar, Advocate
for the petitioner.

Mr. R.S. Pandher, Sr. DAG, Punjab.

RAJ MOHAN SINGH, J. (Oral)

Petitioner has preferred this writ petition for the issuance of an appropriate writ especially in the nature of certiorari quashing the impugned order dated 10.05.2017 passed by the Commissioner Faridkot Division, Faridkot and order dated 28.08.2014 passed by the Additional Divisional Commissioner, Bathinda, whereby the arms licence of the petitioner was cancelled and appeal to that effect was also dismissed.

As per the stand taken by the petitioner, Senior Superintendent of Police, Bathinda had recommended the cancellation of the arms licence of the petitioner vide report dated 15.10.2013 mentioning that the petitioner is habitual of committing crime. Petitioner was involved in FIR No. 40 dated

14.07.2009 under Section 336 IPC and Section 27 of the Arms Act at Police Station Sadar Bathinda; FIR No.60 dated 18.06.2013 under Sections 325/ 323/ 34 IPC registered at Police Station Kot Fatta and *Kalandra* No.22 dated 19.06.2013 under Sections 107/ 151 Cr.P.C.

Learned counsel for the petitioner submits that licence of the petitioner was valid up to 26.02.2016 and the same was being renewed on time to time as per the directions of the District Magistrate. In FIR No.40 dated 14.07.2009 registered under Section 336 IPC and Section 27 of the Arms Act at Police Station Sadar Bathinda, the petitioner has already been acquitted by the Court of Additional Chief Judicial Magistrate, Bathinda on 18.12.2009. In FIR No. 60 dated 18.06.2013 under Sections 325/ 323/ 34 IPC registered at Police Station Kot Fatta, petitioner was convicted for the imprisonment of one year with a fine of Rs.1,000/-, but in appeal, the petitioner stands acquitted by the Appellate Court on 11.2.2017. Police has shown wrong FIR under Sections 107/ 151 Cr.P.C. as only a *Kalandra* is to be filed for the offences in question.

Learned counsel for the petitioner further submits that in FIR No.60 dated 18.06.2013, there was no offence under the Arms Act. Even pendency of the criminal case is not a ground to cancel the arms licence of the petitioner. Involvement of the petitioner in a criminal case is related to the year 2009 and

2013 and the impugned order came to be passed thereafter.

Learned counsel refers to ***Balwinder Singh vs.State of Punjab and others, 2019(4) R.C.R. (Criminal) 960*** and ***Sadhu Singh vs. State of Punjab and others, 2018(4)R.C.R. (Criminal) 567.***

Learned counsel for the petitioner further submits that there was no material available before the authorities to come to the conclusion that the cancellation of arms licence was required for security of “*public peace*” or for the “*public safety*”.

FIR is not having any legal significance for the purpose except for investigation of the crime unless specifically required by any law or by criminal Court. Mere registration of FIR by its nature is only a first information regarding the alleged crime and the same has to be treated only as first information of the crime which would not carry with it any such character of a statutory factor which can influence the individual right of the petitioner to hold a weapon. Section 17(7) of the Arms Act can be perused in this context. In the instant case, the petitioner has already been acquitted for the charges. Even the criminal Court has been given power to suspend or revoke the licence of a person in case of conviction. Before conviction, even for the offence of the Arms Act, the Court cannot order revocation of licence. There is a further rider to the effect that if conviction is set aside in appeal, then the order of revocation of the licence shall become

void. Normal consequences are required to follow thereafter.

The concept of “*public peace*” or “*public safety*” has been elaborately discussed in **CWP No.5724 of 2021** titled '**Brijesh Kumar vs. State of Haryana and others**' decided on 03.08.2021.

For the reasons recorded in **Brijesh Kumar vs. State of Haryana and others'** case (supra), I deem it appropriate to set aside the impugned order dated 10.05.2017 passed by the Commissioner Faridkot Division, Faridkot and order dated 28.08.2014 passed by the Additional Divisional Commissioner, Bathinda. Legal consequences to follow for restoration of Arms licence in accordance with law.

Petition stands disposed of accordingly.

(RAJ MOHAN SINGH)
JUDGE

31.08.2022

anita

whether speaking/non speaking

yes/no

whether reportable/non reportable

yes/no