



**In The High Court for the States of Punjab and Haryana
At Chandigarh**

CRM-M-42368-2024 (O&M)
Date of Decision:- 30.08.2024

Rakesh Kumar ... Petitioner

Versus

State of Punjab ... Respondent

CORAM: HON'BLE MR. JUSTICE GURVINDER SINGH GILL

Present:- Mr. Kawalpreet Singh Virk, Advocate, for the petitioner.

GURVINDER SINGH GILL, J.

1. Petitioner-Rakesh Kumar seeks quashing of FIR No.20, dated 10.02.2022, Police Station Dirba, District Sangrur, under Sections 25/30/54/59 of Arms Act as well as orders dated 06.05.2022 and 03.06.2024 passed by learned Judicial Magistrate 1st Class, Sangrur (Annexures P-7 and P-12) vide which the cancellation reports submitted by the investigating agency have been returned back for further investigation.
2. A few facts necessary to notice for disposal of the petition are that on 10.02.2022 when a police party headed by ASI Om Parkash was present at Village Nihalgarh to Patra, Lehra Road within the area of Nihalgarh for the purpose of conducting checking on account of Assembly Elections-2022, then a white coloured Brezza car bearing registration No.HR-60-J-4778 was noticed coming from the direction



of Lehra which was signalled to stop. The car was searched and from the dash-board a .32 bore revolver along with 12 live cartridges was recovered. The driver of the car disclosed his name as Rakesh Kumar who produced Arms licence No.158/DM/JIND/2000 which was valid upto 17.10.2021 and was valid for State of Haryana only. Accordingly, Rakesh Kumar having been found in possession of 'revolver' without a valid licence, the instant FIR came to be lodged. The matter was investigated by the police and upon conclusion of investigation a cancellation report was prepared which was presented before the Illaqa Magistrate, but the learned Magistrate vide order dated 06.05.2022 (Annexure P-7) returned the same for further investigation.

3. Subsequently, upon conducting further investigation, the police presented cancellation report for the second time, but the learned Judicial Magistrate 1st Class vide order dated 03.06.2024 (Annexure P-12) again returned back to the police for further investigation in accordance with law.
4. Learned counsel for the petitioner submits that since the arms licence of the petitioner had expired on 17.10.2021, he had initiated the process for renewal of the same and had also deposited the requisite fee, as would be evident from the receipts Annexures P-2 and P-3. Learned counsel further submitted that he had planned to deposit the arms licence in the police station and had kept the revolver in the vehicle, but on the said day he received information regarding death



of father-in-law of his sister on the night intervening 9/10.02.2022 and consequently, he along with other members of the family rushed to attend the cremation and it was during the said process that his vehicle was checked and the revolver was recovered and that it was in fact an act of sheer inadvertence and oversight that he forgot to remove the revolver from the car.

5. Learned counsel further submitted that the police conducted thorough investigation on two occasions and the factum of death of father-in-law of petitioner's sister on the night intervening 9/10.02.2022 was found to be correct and also the fact that the petitioner along with other members of his family had attended the cremation on the morning of 10.02.2022. Learned counsel submitted that carrying of the weapon was not intentional and it was on account of inadvertence that he could not remove the same from his vehicle while he happened to be travelling to Punjab.
6. Learned counsel pressed into service a judgment dated 4.9.2023 passed by High Court of Delhi in W.P. (Crl)-813/2023 titled as Dinesh Vs. State of NCT of Delhi so as to contend that in order to attract Section 25 of Arms Act conscious possession of the fire arm is also required to be established which is missing in the present case.
7. This Court has considered the submissions addressed before this Court.



8. Since, the matter is still pending investigation (further investigation) and final report under Section 173 Cr.P.C. pursuant to passing of order dated 03.06.2024 (Annexure P-12) has not been presented, the instant petition is disposed of with a direction to the investigating agency to ensure that further investigation as directed vide order dated 03.06.2024 (Annexure P-12) is concluded in the shortest possible time so that a final report is submitted thereafter at the earliest preferably within less than one month from today.
9. As and when any such fresh final report is presented before the Court of learned Illaqa Magistrate, the said Court shall consider the same in accordance with law and pass appropriate order. Since, cancellation report has already been declined twice, it will not be appropriate to order further investigation in the matter for the third time particularly in view of ratio of judgments rendered in Harinder Pal Singh vs. State of Punjab, 2004(2) RCR (Criminal) 307 and in Prithvi Raj Sehgal Vs. State of Punjab, 2007(3) RCR (Criminal) 438. The trial Court shall thus take a decision one way or the other i.e. either to take cognizance of the offence or to accept the cancellation report.
10. The petition stands disposed off accordingly.

30.08.2024
mohan

(GURVINDER SINGH GILL)
JUDGE

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