

In The Court of Commissioner, Saran Division, Chapra
Arms Appeal No. 14/2016
Arvind Kumar alias Arvind Yadav
Vrs.
The State of Bihar
ORDER

The instant appeal petition is directed against the impugned order passed by District Magistrate, Gopalganj on 01.12.2015 whereby and whereunder the arms licences No. 144/2007, 144/2001 were suspended of the licencing authority with immediate effect acting on the report of S.P. Gopalganj sent vide memo No. 11/83 dt. 12.10.11. mentioning therein that the appellant was made an accused in Uchakagoan P.S. case No. 97/2011, registered on 21.05.11.

The brief facts of the case are that appellant Arvind Kumar alias Arvind Yadav S/o Punayadeo Chaudhary, R/o Vill- shyampur, P.S.-Uchaka gaon., Dist-Gopalganj was holding two arms licences with respect to two N.P. Bore Rifle. Further case is that after registration of Uchka gaon P.S. case No. 57/11 dt. 21.05.11 under sections 341/323/324/307/379/504/34 of IPC in which it was specially mentioned that the appellant used to threaten them the lift the case. This led to sending of a report by S.P. Gopalganj to District Magistrate, Gopalganj stating therein that the appellant (accused in the said FIR) misused the arms licence for threat to others person which has threaten peace and security and other public of area. Thereafter, the learned D.M. Gopalganj suspended the licence of the appellant vide memo No. 1064 dt. 10.12.2011 with the immediate effect and also served a show cause notice to appellant as to how not his licences be cancelled. The appellant alongwith other accused person the said FIR filed his show cause reply. Then the learned D.M. heard the case disposed of the case vide order dt. 01.12.15 holding that as the matter relates to criminal offence and proceeding is pending in the competent criminal Court and till passing of the final order in the said case this case is kept in abeyance. Besides this he also directed the appellant to placed his case after the final judgement of the criminal case.

Feeling aggrieved by and dissatisfied with the aforementioned order the appellant has preferred the instant appeal petition before this Court.

Heard the learned counsel for the parties.

The learned counsel appearing on behalf of the appellant, at the very outset of his arguments, submitted that the impugned order is bad in law and the same is also not maintainable in the eyes of law. The learned counsel further submitted that the learned D.M. Gopalganj has not considered the most important relevant fact that no arms or weapons has been used during alleged occurrence for which the impugned order has been passed as such the said order relating to suspension of licence is improper, illegal and invalid. He also submitted that the learned D.M. Gopalganj has failed to consider the fact that the appellant too false treat to his life due to political rivalry and arms are essential for protection of the life of the appellant, is his statutory Right. In support of the said contention he also referred to an order of Hon'ble High Court reported in PLJR 2008 (1) page-151. The learned counsel lastly submitted that there is every chances that the disposal of the pending criminal case against the



appellant would take time and during that period keeping the licence under suspension is not a valid order hence the impugned order be set aside and appellant suspended licence be restored.

The learned A.P.P. appearing on behalf of D.M. Gopalganj submitted that the impugned order passed by the licencing authority is proper and valid because the said order has been passed on the report of S.P. Gopalganj with respect to the appellant as he was made an accused in Uchka gaon P.S. case No. 97/2011. The learned A.P.P. also said that the findings of the licencing authority is fully correct and justified hence the said order is fit to be upheld and this appeal petition being devoid of any merit is fit to be dismissed.

Considering the facts and circumstances of the case, material available on records, pleadings made by the learned counsel for the parties and on perusal of the impugned order, it is seen that the appellant's arms licence has been initially suspended by the licencing authority in view of the report of S.P. Gopalganj that the appellant was made accused in Uchakagaon P.S. case No. 97/2011 for some offence and subsequently failure of the appellant to file any satisfactory show cause reply thereof. Obviously, there is nothing wrong in the said order of the licencing authority. It is also seen from the record that a criminal trial is already began and the same is pending for final judgement before the trial Court. The licencing authority in his order specifically mentioned that the appellant's case is kept pending till the final disposal of the criminal case with further liberty to the appellant to renew his claim after the final judgement in the criminal case. Obviously I do not find any illegality in the said order of the licencing authority in view of the fact that Section 17 of the Arms Act-1959 confers wide power to the licencing authority regarding variation, suspension and revocation of arms licences. The learned counsel for the appellant failed to point out any specific illegality in the said order of the licencing authority so as to warrant any interference at this juncture.

For the reasons mentioned above, the impugned order is upheld and this appeal petition being devoid of any merit is dismissed accordingly.

Dictated and Corrected by me.

Commissioner
Saran Division, Chapra.

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