

IN THE COURT OF COMMISSIONER, SARAN DIVISION, CHHAPRA

Arms Appeal No-58/2010
Rajendra Singh Appellant
Vs
State of Bihar Respondents

ORDER

14-2-13

The instant appeal application is directed against the impugned order of D.M. Siwan passed in Misc. Arms case No—05/09-10 on 09.04.2010 whereby whereunder the Arms licence No71/80 of DBBL Gun was cancelled.

2. The brief fact of the case is that the appellant Rajendra Singh S/o Fuleshwar Singh R/O vill- Morakhas P.S. Bhagwanpur, Dist-Siwan was granted an Arms licence in the year 1980. The further case that the D.M, Siwan issued an advertisement, published in local dailies dt. 07.03.05 asking all the arms licence holders of the district to file affidavit to the effect that there is no criminal case against them and if there is any case, to give its details through affidavit. The appellant filed affidavit on 10.3.05 stating that one ST 212/03 was pending hence the D.M. by order dt. 25.03.2005 suspended the arms licence with a condition that in case of disposal of the pending case, proper order relating to revocation of suspension would be passed. Later on the appellant filed certified copy of the acquittal order passed by District and Session Judge, Siwan in Tr. No. 212/03 dt. 2.04.09 but the licence was cancelled by D.M. vide order dt.09.04.2010. This led to filing of this appeal before this court for setting aside the impugned order and further restoration of the licence.

3. Heard the parties.

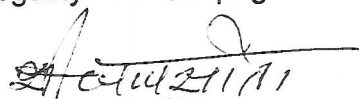
4. The learned counsel for the appellant submitted that the impugned order of D.M. Siwan is bad in law and in fact is as much as the said order has been passed without giving any opportunity to the appellant to be heard. He further submitted that the learned D.M. Siwan did not consider the affidavit filed by the appellant nor the Judgment of the learned District and Session Judge, Siwan dt

2.4.09 in which the Court has acquitted him in S.T No-212/03 u/s 498(A)/323/307 IPC. The learned counsel further pleaded that the appellant is a peace loving and law abiding citizen, having no criminal antecedents and never contravened the terms and conditions of the Arms licence. The learned counsel lastly prayed that the impugned order of D.M, Siwan be set aside.

5. The learned A.P.P appearing on behalf of the State vehemently opposed the submission made by the learned counsel and argued that the impugned order has been passed after detailed hearing and on finding that the appellant has not been acquitted on merit but on technical ground hence the licence cancellation order has been passed according to law. He further submitted that there is no merit in this appeal.

6. The appellant and his relatives were accused of assaulting and injuring his wife in his sasural and were charged under sections 498(A), 323 and 307 of the IPC. Later on, the wife and husband (and their relatives) compromise and the couple started living together during the pendency of the case. When it came to giving evidence against her husband, the wife changed here tune and the severity of the case from her statement given to the police etc soon after the assault. Therefore the learned Judge gave the accused the benefit of doubt and compromise and acquitted them. This does not mean that the appellant did not use violence against his wife and his in-laws. It may be dangerous for himself and his family members if he has access to firearms.

7. The learned D.M. considered all these aspects while deciding the case for cancellation of arms license. He quoted relevant portions of the Judgement in the case referred to above to buttress his point that the appellant might pose danger to others if he possesses firearms. After considering all aspects he came to conclusion that he is not fit to hold a licence of fire arms, which is reasonable. He also afforded an opportunity to the appellant and there is no violation of the principle of natural justice. I do not find any illegality in the impugned order and it is upheld and the appeal is dismissed.



(C. Lalsawta)

Commissioner, Saran Division, Chhapra