

2023 SCC OnLine Guj 2670

In the High Court of Gujarat at Ahmedabad
(BEFORE M.R. MENGDEY, J.)

Pappu

Versus

State of Gujarat and Others

R/Criminal Misc. Application No. 4695 of 2014

Decided on August 25, 2023

Advocates who appeared in this case :

Mr. Virat G. Popat (3710) for the Applicant(s) No. 1

DS Aff. not Filed (R) for the Respondent(s) No. 2

Ms. Vrunda Shah, App for the Respondent(s) No. 1

The Judgment of the Court was delivered by

M.R. MENGDEY, J.:— By filing the present Application under Section 482 of the Criminal Procedure Code, 1973, the Applicant/Original Accused has prayed to quash and set aside the FIR being II - C.R. No. 3030 of 2014 registered with Dhrangadra Taluka Police Station, District Surendranagar for the offences punishable under Section 25(1)(1-B)(A) of the Arms Act.

2. The facts and circumstances giving rise to the filing of the present Application are such that on 20.3.2014, present FIR came to be registered against the present Applicant and the other co-accused to the effect that on 20.3.2014, the Police Personnel were on patrolling at Dhrangadra. At that time, a secret information was received by the Police Personnel that one Bharatbhai Malubhai Mevada was holding a fire arm without any license and that the said fire arm was provided to him by the present Applicant.

3. Learned Advocate Mr. Virat G. Popat appearing for the Applicant has submitted that, at the time of incident, the present Applicant was ordered to be released on Parole with Police Escort and therefore the present Applicant could not have handed over any weapon to the co-accused as alleged in the FIR. The allegations levelled in the FIR against the present Applicant are highly improbable. He also referred to the order passed by this Court in Criminal Misc. Application No. 14639 of 2013 whereby the Applicant was ordered to be enlarged on temporary bail for a period of seven days under Police Surveillance. He also submitted that the co-accused, from whom, the unlicensed fire arm was allegedly recovered, has been acquitted by the concerned Trial Court. He, therefore, submitted to allow the present Application.

4. The Application is opposed by the learned APP Ms. Vrunda C. Shah appearing for the Respondent - State. She submitted that the present Applicant had handed over the fire arm in question to the co-accused and that is how he has been implicated in the present offence. She therefore submitted that the matter requires investigation, and therefore, the present Application may be dismissed.

5. Heard learned Advocates for the parties and perused the record.

6. As per the role attributed to the present Applicant, he had handed over the fire arm in question to the co-accused-Bharatbhai Malubhai Mevada. Upon perusal of the FIR in question, it appears that the Applicant has been implicated in the present offence only on the basis of the statement of the said Bharatbhai Malubhai Mevada, from whom, the weapon is recovered. The record also indicates that vide order dated 23.9.2013, the Applicant was enlarged on temporary bail for a period of seven days with Police Escort, and thus, the Applicant was out on bail with Police Escort at the time of incident.

7. Learned Advocate for the Applicant has produced a copy of the judgment and order dated 21.8.2017 passed by the learned Additional Chief Judicial Magistrate, Dhrangadra in Criminal Case No. 39 of 2017 on record. Vide the said judgment and order, the concerned Trial Court has ordered to acquit the co-accused Bharatbhai Malubhai Mevada of the charges levelled against him.

8. Considering the aforesaid aspects, the Application deserves to be allowed and is hereby allowed. The FIR being II - C.R. No. 3030 of 2014 registered with Dhrangadra Taluka Police Station, District Surendranagar for the offences punishable under Section 25(1)(1-B)(A) of the Arms Act is hereby quashed and set aside qua the present Applicant. Rule is made absolute.

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