



2024 INSC 924

NON-REPORTABLE**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPEAL NO(S). OF 2024**
(Arising out of SLP(Crl.) No(s). 12510 of 2023)**IRFAN KHAN****....APPELLANT(S)****VERSUS****STATE (NCT OF DELHI)****....RESPONDENT(S)****J U D G M E N T****Mehta, J.**

1. Leave granted.
2. The appellant seeks quashment of the proceedings of the criminal case arising from FIR No. 477 of 2022 dated 9th July, 2022 lodged against him at Police Station, Govind Puri for the offences punishable under Sections 25, 54 and 59 of the Arms Act, 1959¹. It was *inter alia* alleged in the FIR that the appellant was found in the Pravasi Park acting suspiciously. Upon being searched, a buttondar knife having dimensions, 31.5 cms in length (blade length of 14.5 cms and handle of 17 cms) and width of 3 cms, was recovered from his possession.

¹ Hereinafter, being referred to as 'Arms Act'.

3. After investigation, a charge-sheet came to be filed against the appellant in connection with the aforesaid FIR for the offences punishable under Sections 25, 54 and 59 of the Arms Act. The appellant approached the High Court of Delhi by filing a petition² under Section 482 of the Code of Criminal Procedure, 1973³ for quashing of the FIR, the consequential charge-sheet, and all the proceedings sought to be taken thereunder. The said petition stands rejected *vide* order dated 18th April, 2023 which is assailed in this appeal by special leave.

4. We have heard and considered the submissions advanced by Ms. Srishti Agnihotri, learned counsel for the appellant and Mr. K.M. Natraj, learned ASG, appearing for the State (NCT of Delhi) and have gone through the material placed on record.

5. As per Rule 3 read with Category V of Schedule I (Part A) of the Arms Rules, 2016⁴, possession of a knife having blade length of more than 9 inches (22.86 cms) and width of more than 2 inches (5.08 cms) has been brought within the purview of an offence under the Arms Act and the Arms Rules. The said provision read as under: -

² Criminal MC No. 1736 of 2023.

³ Hereinafter, being referred to as 'CrPC'.

⁴ Hereinafter, being referred to as 'Arms Rules'.

“V. **Arms other than firearms:** Sharp-edged and deadly weapons, namely: Swords (including sword-sticks), daggers, bayonets, spears (including; lances and javelins), battle-axes, **knives (including Kirpans and Khukries)** and other such weapons with **blades longer than 9” or wider than 2”** other than those designed for domestic, agricultural, scientific or industrial purposes, steel baton, “Zipo” and other such weapons called 'life preservers', machinery for making arms, other than category II, and any other arms which the Central Government may notify under Section 4 of the Act.”

(emphasis supplied)

6. Admittedly, dimensions of the knife recovered from the appellant were much lesser than the one provided in the statute and the rules framed thereunder. However, the Government of NCT of Delhi has issued a DAD notification dated 29th October, 1980⁵ by which certain categories of knives/sharp weapons, having dimensions lesser than those provided in the Arms Act and Arms Rules when meant for “**manufacture, sale or possess for sale or test**”, were brought within the purview of the Arms Act. The DAD notification reads as below: -

“ Case File (25/54/59 Arms Act) (Knife)
Notification regarding length and breadth of Knife
DAD Notification
(To be Published in Part IV of Deli Gazette)
(Extra Ordinary)
Delhi Administration, Delhi
Notification

Dated the 29th October, 1980

No. F/13/451/79-Home (G) - Whereas the administration is of the opinion that having regard to the circumstances prevailing in the Union Territory of Delhi is necessary Appointed Date expedient in the public interest, "to regulate the

⁵ Hereinafter, being referred as 'DAD Notification'.

manufacture sale or possession for sale or test the spring actuated knives, gararidar knives, bottondar knives and other knives which open or close with any other mechanical device with a sharp edge blade of 7.62 Cms, or more in length and 1.72 cms or more in breadth in the Union Territory of Delhi.

Now, therefore in exercise of the powers under rule 19 of the Arms Rules, 1962 read with the Govt. of India, Ministry of Home Affairs Notification No. 2/2/69-UTL(ii) dt. 21st June, 1969, the Administrator Delhi is pleased to direct that **"no person in the Union Territory of Delhi shall manufacture, sale or possess for sale or test spring actuated knives, gararidar knives, bottondar knives and other knives which open or close with any other mechanical device with a sharp edge blade of 7.62 Cms, or more in length and 1.72 Cms or more in breadth in the Union Territory of Delhi" unless he hold a licence issued in accordance with provisions of the Arms Act, 1959 (No. 64 of 1959) and Arms Rule, 1962 framed thereunder with effect from the publication of this Notification in Delhi Gazette.**

Sd/-
(Nathu Ram)
Deputy Secretary, Home (G)
Delhi, Administration, Delhi

No. F-13/451/179 (Home General) dt. 29.10.1980
This is necessary to be included in the case file."

(emphasis supplied)

7. For the purpose of deciding the issue as to whether the knife recovered from the appellant violated the DAD Notification, allegations as set out against the appellant in the charge-sheet require consideration. The conclusion drawn by the Investigating Officer in the charge-sheet reads as below: -

"16. Reached Pravasi Ekta Park, Bhumiheen Camp Govindpuri New Delhi where a person was seen sitting near the corner of the park in a state of euphoria, who seeing the police party started moving from there, then HC Jaiprakash NO 1508/SE, with the help of me HC, swiftly approached and overpowered that person. On enquiry, the abovementioned

persons said his name and address as Irfan S/o Azeem Khan R/o F-103 Navjeevan Camp Govindpuri Delhi age 22 years. When the above person asked Irfan the reason for sitting there, he started talking unnecessary things and could not give any satisfactory answer. The person mentioned above was repeatedly putting his hand on the pocket of the pant he was wearing and looked like he was trying to hide something. On suspicion, a cursory search of the above person Irfan was carried out. During the search, a button knife was recovered from the right pocket of the pants he was wearing. The blueprint was prepared by opening the seized buttoned knife with the help of a button and placing it on a white paper. On measuring from the split, the length of the blade of the knife was found to be 14.5 CM, the width of the knife was 3 CMS, the length of the handle was 17 CMS, the width of the handle was 2 CMS and the total length of the knife was found to be 31.5 CMS. The seized buttoned knife which is made of metal. And the handle has silver metal strips on both sides. And in the middle there is an iron-like metal strip, which is joined with the help of a nail. There is a brass metal button on the joint of the knife and the handle. With the help of which the knife opens and closes. Seized buttoned knife was closed with the help of button and kept in a white cloth and prepared the memo and sealed with stamp JP and handed over the seal to HC Budhi Prakash No. 2109/SE which accused Irfan S/o. Ajeem Khan R/o. F-103 Navjeevan Camp New Delhi Age-22 Yrs was illegally in his possession of button knife who violated DAD- No. F-13/451/179 (Home General) Dated 29/10/1980 of offense u/s 25/54/59 Arms Act has been committed therefore HC Budhiprakash No. 2109/SE was sent to the police station.

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During the investigation, the HC prepared a map of place of occurrence at the behest of HC Jaiprakash NO 963/SE. Thereafter accused Irfan S/O Azim Khan Address F-103 Navjeevan Camp, New Delhi aged 22 New Delhi was implemented who told on interrogation that I am living with family at the above address. In my family, apart from me, my parents have 6 sisters and a brother. As a child, falling in the wrong company, I had become addicted to drugs and started committing petty thefts. About 10-12 days ago, I was in lock-up Govindpuri police station in a theft case and went to jail. About a month back, I had bought this buttonhole knife from a boy named Akash for Rs.500, which I had kept hidden in my house. With the intention of snatching, today I kept this buttoned knife in my pocket and came to Parvasi Ekta Park where the police caught me and recovered the buttoned knife from me. I made a mistake, please forgive me. After which the accused Irfan above was arrested following all the guidelines of the Hon'ble Supreme Court in the trial case, after the

interrogation and circumstances was found to be arrestable. The article which was seized in the present case was kept in the storeroom. Presented the accused Irfan before the Hon'ble Court and sent to JC.

From the investigation till now, from the statement of witnesses, from the recovery, a lot of evidence has been passed against U/sec 25/54/59 Arms Act against the accused Irfan S/O Azim Khan, Address Khana No. 11. That's why the challan is presented in the court after performing the investigation. The accused should be prosecuted, and the witness should be given due respect by summoning them and asking for assistance. The accused is in JC. Challan was sent for your consideration."

8. A bare perusal of the aforesaid conclusions as set out in the charge-sheet would indicate that there is no allegation whatsoever that the buttondar knife recovered from the appellant was in violation of any of the stipulations contained in the DAD Notification dated 29th October, 1980 which mandates that 'no person in the Union Territory of Delhi shall "**manufacture, sale or possess for sale or test**" spring actuated knives, gararidar knives, buttondar knives and other knives which open or close with any other mechanical device with a sharp edge blade of 7.62 cms, or more in length and 1.72 cms or more in breadth in the Union Territory of Delhi.'

9. The notification whereby, a buttondar knife having blade dimensions of 7.62 cms or more in length and 1.72 cms or more in breadth has been brought under the mischief of the Arms Act, would be applicable only when the recovered knife is meant for the

specified reasons i.e., “manufacture, sale or possession for sale or test” as indicated in the DAD notification.

10. Manifestly, on going through the report under Section 173 CrPC, there is not even a whisper that the appellant’s possession of the said buttondar knife was for any of the prohibited categories as indicated in the DAD Notification. Hence, the totality of the evidence collected by the investigation officer is not sufficient to draw even a remote inference that by simply being found in possession of the buttondar knife, the appellant acted in violation of the DAD Notification.

11. Specific plea has been taken at Question of Law No. (B) and Grounds Nos. C and E of the SLP that the allegation against the appellant is of simply carrying a buttondar knife, which is not an offence as per the DAD notification and that the possession of the same was not for ‘manufacture, sale or possession for sale or for test.’

12. In the counter affidavit filed by the respondent-State, the specific assertions so made by the appellant are not refuted and there is no averment therein that the appellant was possessing the knife for the purpose of ‘manufacture, sale or possession for sale or for test.’ In the preliminary submission No. 5.1, all that is

averred on behalf of the respondent-State is that the possession of the said weapon is contrary to the DAD notification dated 29th October, 1980. Though the respondent-State has raised an objection in the counter affidavit that the aspect as to whether the possession of the knife was for sale or for test would have to be gone into at the stage of trial, but indisputably before requiring the accused to undergo trial for simple possession of the knife, the prosecution would have to at least present the basic allegations constituting the ingredients of the offences in the charge-sheet. Needless to say, having perused the entirety of evidence collected during investigation, the prosecution cannot be allowed to improve its case as set out in the charge-sheet.

13. The High Court of Delhi while dismissing the quashing petition, filed on behalf of the appellant, under Section 482 CrPC, did not advert to these fundamental flaws in the prosecution case and rejected the quashing petition filed by the appellant cursorily.

14. At the cost of repetition, it may be noted that on going through the allegations as set out in the charge-sheet *supra*, there is not even a whisper that the appellant was carrying the buttondar knife of the dimensions stated above, for the purpose of sale or test. Hence, the proceedings sought to be undertaken against the

appellant in pursuance of the impugned charge-sheet for the offence under Sections 25, 54 and 59 of the Arms Act, tantamount to an abuse of the process of law and deserve to be quashed.

15. Thus, the impugned order dated 18th April, 2023 is set aside. Resultantly, the FIR No. 477 of 2022 as well as the charge-sheet filed in consequence thereof and all proceedings sought to be undertaken against the appellant are hereby quashed and set aside.

16. The appeal is allowed accordingly. No order as to costs.

17. Pending application(s), if any, shall stand disposed of.

.....J.
(PAMIDIGHANTAM SRI NARASIMHA)

.....J.
(SANDEEP MEHTA)

New Delhi;
December 03, 2024