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DELHI POLICE ACADEMY



SUPREME COURT OF INDIA

IRFAN KHAN ....APPELLANT(S).
VERSUS
STATE (NCT OF DELHI) ....RESPONDENT(S)

Prohibition On Buttondar Knife Applies Only If Knife Was For 'Manufacture, Sale Or Possession For Sale Or Test' : Supreme Court

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CRIMINAL APPEAL NO(S). 4976 OF 2024 (Arising out of SLP(Crl.) No(s). 12510 of 2023)

Date of Judgement: 03/12/2024



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Facts of the Case:

In this case, the appellant, Irfan Khan, was apprehended by the police at Pravasi Park, Delhi, acting suspiciously. Upon searching him, a button-operated knife with a total length of 31.5 cm (blade: 14.5 cm, handle: 17 cm, blade width: 3 cm) was recovered from his possession. An FIR (No. 477 of 2022) was registered against him at Govind Puri Police Station under Sections 25, 54, and 59 of the Arms Act, 1959. After investigation, a charge-sheet was filed alleging that the possession of the knife violated provisions of the Arms Act and the DAD Notification of 1980. The appellant subsequently approached the Delhi High Court seeking quashing of the FIR and related proceedings, which was rejected. Aggrieved by the High Court's order, he filed the present appeal before the Supreme Court.

Issues Advanced:

1.Whether the appellant's possession of the buttondar knife constituted a violation under the Arms Act and the Arms Rules, 2016.

2.Whether the appellant's possession of the knife fell within the scope of the Delhi Administration Notification (DAD Notification) dated 29th October 1980.?

Judgement:

The Hon'ble Court considered the submissions advanced by the learned counsel for the appellant and learned ASG, appearing for the State (NCT of Delhi) and also went through the material placed on record. The Court observed as under:

Para 5. As per Rule 3 read with Category V of Schedule I (Part A) of the Arms Rules, 2016, 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. .....

Para 6. Admittedly, the 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, 1980 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 relevant portion of DAD notification is reproduced below:

....., 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.**

The Hon'ble Court considered the chargesheet filed by the police and observed that a bare perusal of the 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.'

The Hon'ble court held that **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.**

The Court noted that possession alone, without supporting evidence of intent to manufacture, sell, or test, does not constitute an offense under the Arms Act as interpreted in conjunction with the DAD Notification. The Hon'ble Court held as under:

Para 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.

With regard to the objections raised by the respondent state in the counter affidavit the Hon'ble Court emphasized that the prosecution cannot retroactively enhance its case beyond what is presented in the

charge-sheet. Highlighting the lack of evidence and essential allegations, the Court concluded that allowing the proceedings to continue would constitute an abuse of the legal process. The relevant paras are reproduced below:

Para 12.....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 offenses 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.**

Para 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.**

Accordingly, the Supreme Court quashed the FIR, charge-sheet, and related proceedings against the appellant. The appeal was allowed with no order as to costs.