

**Murli Vs. Emperor**

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**SooperKanoon Citation :** [sooperkanoon.com/479531](http://sooperkanoon.com/479531)

**Court :** Allahabad

**Decided On :** Jul-08-1929

**Reported in :** AIR1929All720

**Appellant :** Murli

**Respondent :** Emperor

**Judgement :**

**Niamatullah, J.**

1. Heard the learned Assistant Government Advocate. I have no hesitation in accepting the reference made by the learned Sessions Judge, who has rightly referred to the provisions of Rule 35, U.P. Arms Rules and Orders (1924). It is perfectly clear that a person who repairs arms and is in possession of guns made over to him for repairs cannot be convicted of an offence of being in possession of arms without license.

2. The explanation of the learned Magistrate does not refer to any section of the Arms Act or to any rule framed thereunder which requires a person carrying on the business of repairing arms to take out a license for the exercise of his profession or for being in possession of arms made over to him for the bona fide purpose of repairs. The learned Magistrate emphasises the fact that the accused was in possession of the guns in question for a longer time than would be necessary for effecting the required repairs and refers to the evidence of a witness who says that

the owners of the guns did not come to the shop of the accused the whole day to take back the guns. The learned Magistrate argues that:

in ordinary sense temporary means short time, and if we read it with the words mere repairs as laid down in R, 35, it suggests still more shortness of time, say a possession for a few minutes when the owner is present within the premises of the smith.

3. I find no warrant for the proposition implied in the remarks quoted above. Once it is found that a person was in possession of arms for the bona fide purpose of repairing them, the length of time during which his possession thereof is justified depends upon the circumstances of each case. If the owner does not choose to turn up for several days after the repair has been made, the smith is not required to take any action with regard to the gun thus in his possession. He can wait for a reasonable time till the owner turns up to take back his gun. The repairer may have the occasion to keep the gun in his possession for a longer time, if some part not locally procurable is, needed for the repair of the gun and has been ordered from some other place. It is difficult to illustrate all cases in which a long possession may be justified. Whether possession by a smith who received the arms in question in ordinary course of his business was reasonable depends on the nature of the work to be done, whereabouts of the customer and the exigencies of his own profession and so on.

4. Accepting the recommendation of the learned Sessions Judge, I set aside the conviction of the applicant Murli, and direct that the fine, if paid, be refunded.