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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 1036/2016 & Crl.M.A.No. 4463/2016

SHAH NAWAJ RANA Petitioner
Through Mr. Tanmaya Mehta & Mr. Rohit
Nagpal, Advocates
versus

STATE OF NCT OF DELHI Respondent
Through Ms.Manjeet Arya, APP for State with
SI Vasant Kumar, P.S.IGI Airport

CORAM:
HON'BLE MR. JUSTICE A.K. PATHAK

ORDER
% **23.08.2017**

By this petition under Section 482 Cr.PC, the petitioner has prayed for quashing of FIR No. 138/2014, under Section 30 of Arms Act, 1959 (for short 'the Act') at P.S. IGI Airport on the complaint of sub-Inspector/EXE, CISF posted at IGI Airport, Terminal-3, New Delhi.

It is noted that subsequently offence under Section 30 of the Arms Act have been converted to offence under Section 25 of the Arms Act.

Brief facts are that the petitioner was to fly to Dubai from IGI Airport by Jet Airways Flight No. 9W0548. On the X-ray screening of his baggage, one live cartridge of bore 0.380 calibre was found. Petitioner failed to produce a licence for carrying the said cartridge.

Accordingly, the FIR was registered.

Learned counsel for the petitioner has contended that petitioner has a valid Arms Licence for the arm and ammunition of bore 0.380 calibre issued by concerned competent authority in the State of U.P. The said licence has been issued by Zila Parishad, Bijnaur. The said live cartridge which otherwise was damaged, remained in the baggage of petitioner when he started his journey from Mujaffar Nagar for going to Dubai. Petitioner did not notice the said live cartridge in the baggage and had only put his clothes and other articles. The petitioner was not in “conscious possession” of the cartridge. It is further submitted that the said live cartridge, upon examination by FSL was found to be misfired cartridge and could not have been used again.

Learned counsel for petitioner submits that petitioner holds a valid arms licence within the State of U.P. It has also been stated that from the investigation, nothing had come on record to suggest that petitioner was in ‘conscious possession’ of the ammunition which was recovered from the baggage at IGI Airport. It has also been stated that FSL found the said cartridge to be “misfired one”; meaning thereby, the same could not have been used again.

He has placed reliance on *Sanjay Dutt vs. State through CBI, Bombay*, (MANU/SC/0554/1994), *Nurit Toker vs. The State of Maharashtra*, (2012 Bom CR (Cri) 154), *William Michael Hurtubise vs. The State of Odisha and Ors.* (MANU/OR/0016/2014), *Gunwantlal vs. The State of Madhya Pradesh*, (MANU/SC/0130/1972) and *Gaganjot Singh vs. State*, (MANU/DE/3227/2014).

It has been held that accused was not in conscious possession of the cartridge. It is not in dispute that the petitioner is having a valid arms licence within the State of U.P. He is a resident of Mujjafar Nagar, U.P. There is a plea taken by the petitioner that the misfired cartridge remained lying in his baggage un-noticed when he put his clothes and other articles for undertaking journey to Dubai.

For the foregoing reasons, FIR and the consequential proceedings emanating therefrom are quashed.

The petition is disposed of.

A.K. PATHAK, J

AUGUST 23, 2017

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