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

+ W.P.(CRL) 1669/2017

NARINDERJIT KAUR SINGH Petitioner
Through: Mr.Satvinder Singh, Adv.

versus

STATE (NCT OF DELHI) & ANR. Respondents
Through: Mr.Piyush Singhal, Adv. for
Mr.Ashish Aggarwal, ASC for State.
SI Vasant Kumar, P.S. IGI Airport.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **07.11.2017**

The petitioner seeks quashing of the FIR No. 235/2016 dated 23.06.2016 (PS IGI Airport) instituted for the offences under Section 25 of the Arms Act, 1959.

It has been submitted on behalf of the petitioner that she is a citizen of USA, married to an Indian and has a minor daughter to look after.

It has been further submitted that the petitioner, after arriving from the USA, went to Amritsar, which is her matrimonial home. While on her way back to USA, from the baggage carried by her, one live bullet of 7.65 mm was found. Hence the subject FIR.

The husband of the petitioner holds a valid arms licence and the bag which was normally used by him, was inadvertently and in a hurry carried by the petitioner. It has been submitted that the cartridge was left behind in the aforesaid bag inadvertently.

Mr.Piyush Singhal, learned counsel appearing on behalf of the State, has informed this Court that charge sheet in this case has already been submitted.

For prosecution under the Arms Act, it needs to be proved that the accused had the knowledge or consciousness of possession. "Possession", for the purposes of prosecution must mean possession with the requisite mental element, i.e. conscious possession and not mere custody without awareness (refer to ***Gunwantlal vs. The State of Madhya Pradesh, AIR 1972 SC 1756; Sanjay Dutt vs. State through CBI, Bombay (II), (1994) 5 SCC 410***).

The circumstances of the case make it very clear that mere possession of one live cartridge and no further evidence, is insufficient for proving any charge against the petitioner. One live cartridge, it has been submitted, cannot be used for any purpose in the absence of the firearm.

It is a settled law that the Courts can interfere at any stage for preventing the abuse of the process of the Court and the only safe-guard against such use of power is that legitimate prosecution may not be stifled. True it is that this Court cannot inquire into the reliability of the evidence and sustainability of accusation but from the circumstances of this case, it would only be a futile exercise to continue with the prosecution when the petitioner has a clean background.

Having regard to the facts and circumstances of this case, this Court is of the opinion that the possession of one live cartridge, without the firearm, the petitioner cannot be said to be in conscious possession of the same. There does not appear to be even a remote possibility of the police bringing in any further evidence regarding the intention of the petitioner.

Considering the aforesaid facts, this court is of the view that no useful purpose would be served in prosecuting the petitioner.

Considering the aforesaid facts, FIR No. 235/2016 dated 23.06.2016 (PS IGI Airport) instituted for the offences under Section 25 of the Arms Act, 1959 and all the emanating proceedings therefrom are quashed.

The petition is disposed of.

ASHUTOSH KUMAR, J

NOVEMBER 07, 2017

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