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

+ W.P.(CRL) 1716/2017

ANMOL RATTAN GUPTA

..... Petitioner

Through Mr.Varun Malik, Adv. with Mr.Satya
Ranjan Swain, Adv.

versus

THE STATE NCT OF DELHI

..... Respondent

Through Mr.R.S. Kundu, ASC with Mr.Ankit
Gulia & Mr.Harsh Chaudhary, Adv.
SI Vasant Kumar PS IGI Airport.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

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30.05.2017

Crl.M.A. 9505/2017

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

W.P.(Crl.) No.1716/2017

The petitioner has sought quashing of the FIR No.537/2015 dated 22.12.2015 (P.S.IGI Airport) instituted for the offences under Section 25 Arms Act, 1959.

It is stated that the petitioner was scheduled to travel to Combodia along with his parents on a vacation, on 22.12.2015. On the said date, when he was about to board the flight no- CZ-360 to Combodia from IGI Airport, Delhi, his baggage, upon search during check-in, was found to be containing one single live bullet of 45 AUTO (PMC) 03. Thereafter the subject F.I.R

was registered against him.

The petitioner is an Indian national, living in Chandigarh, Punjab who has pursued his higher studies in U.S.A. During his stay in U.S.A., he used to visit shooting range along with his cousin, Mr. Jaideep Sood. It is further submitted that, after inquiry, it has been found that the bullet belonged to Mr. Jaideep Sood, who is a medical practitioner in U.S.A and has been residing there for the last 35 years.

It is submitted that the petitioner was not aware about the presence of a live bullet in his bag. The bullet was inadvertently, perhaps due to carelessness, left in the bag. There is no intention of the petitioner to carry the bullet with him.

The circumstances of the case make it very clear that mere possession of one live bullet and no further evidence, is insufficient for proving any charge against the petitioner. The petitioner is an educated person with no criminal antecedents.

One live bullet cannot be used for any purpose in the absence of the firearm. For prosecution regarding possession of a firearm under the Arms Act, it needs to be proved that the accused had the knowledge or consciousness of that 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***).

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 keep the investigation of this case pending when the petitioner has a clean background.

The learned counsel appearing for the petitioner has relied upon various orders passed by this Court in several other cases of similar nature.

Having regard to the facts and circumstances of this case, this Court is of the opinion that for 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 continuing with the investigation in this case.

Considering the aforesaid facts, FIR No.537/2015 dated 22.12.2015 (P.S.IGI Airport) for the offence under Section 25 Arms Act, 1959 and all the emanating proceedings therefrom are quashed.

The petition is disposed of.

ASHUTOSH KUMAR, J

MAY 30, 2017
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