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

+ **CRL.M.C. 3201/2017**

JAVED AHMAD KHAN

..... Petitioner

Through: Mr. U.A. Khan, Mr. Saeed Ahmad
Khan and Mr. Shahrukh Khan, Advs.

versus

STATE (NCT OF DELHI) & ANR.

..... Respondents

Through: Mr. Amit Gupta, APP along with SI
Manoj Kumar, P.S. IGI Airport.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

% **18.08.2017**

Crl. M.A. 13201/2017

Allowed, subject to all just exceptions.

Application is disposed of.

Crl. M.C. 3201/2017

By this petition under Section 482 Cr.P.C., petitioner has prayed for quashing of FIR No. 306/2014, initially registered under Section 30 of the Arms Act ('The Act' for short) and later converted to under Section 25 of the Act, registered at police station IGI Airport on the complaint of Ningthoujam Geet Chandra, Security Supervisor at the IGI Airport, New Delhi.

Brief facts are that petitioner is a resident of 14, Nishant Apartment, Near Shamshad Market, Civil Lines, Aligarh, U.P. He was going from Delhi to Sharjah by Flight No. G-9464 in the night intervening 27th and 28th August, 2014. On physical check of the baggage of the petitioner, two live cartridges of .22 and .32 bore respectively were recovered. Petitioner failed to produce any licence at that time. Accordingly, FIR No. 306/14 was registered at the police station IGI Airport against the petitioner for being in possession of ammunition, without a licence.

Investigating Officer SI Manoj Kumar of police station IGI Airport is present in Court and has confirmed that during the investigation petitioner had produced two valid arms licenses in respect of the ammunitions of .22 bore and .32 bore respectively. Photocopy of the charge-sheet has also been placed on record and perused, wherein this fact has been mentioned; meaning thereby that petitioner was having a valid arms licences issued by the concerned authorities situated in U.P., and could have legally possessed these bullets within the territory of U.P.

Case of the petitioner is that the said two live cartridges, which were recovered from his baggage, had remained in his baggage inadvertently when he began his journey from Aligarh. He did not notice that these

bullets in his bag before putting his clothes and other articles for travelling to Sharjah. It is submitted that petitioner was not in conscious possession of these two bullets, thus, ingredients of offence under Section 25 of the Arms Act are not attracted. Reliance has been placed on Gopal Saikia vs. State (NCT of Delhi) & Anr. 2017 (2) JCC 1107, Isha Rashid vs. State 2017 (3) JCC 1564 and Gunwantlal vs. State of Madhya Pradesh 1972 SCC (Cri.) 678.

In Golap Saikia (Supra), a learned Single Judge of this Court, by following the law laid down in Sanjay Dutt vs. State 1994 (5) SCC 410 and Gunwantlal (Supra), has held that mere possession of a single live cartridge without having any criminal intention, was sufficient to terminate the proceedings under the Arms Act, 1959. In Gunwantlal (Supra), Supreme Court has held that 'conscious possession' of fire arms or ammunitions is required for attracting the relevant provisions of the Act.

In Isha Rashid (Supra), a learned Single Judge in the similar facts quashed the FIR, where one live cartridge was recovered from the baggage, on the routine check of the baggage of the petitioner at the IGI airport.

In the present case, petitioner was holding valid armed licenses for the territory of U.P., thus, he could legally possess and carry the arms and

ammunition within the State of U.P. For going to Sharjah, petitioner had come to Delhi Airport and while checking, two live cartridges were found in his baggage at the airport. Petitioner has taken a plea that live cartridges remained unnoticed in the bag when petitioner began his journey. The plea taken by him is a probable plea. Nothing has come on record during the investigation to suggest that petitioner was in 'conscious possession' of the two live cartridges. Accordingly, FIR and the consequent proceedings emanating therefrom are quashed.

Petition is disposed of in the above terms. Miscellaneous application is disposed of as infructuous.

A.K. PATHAK, J.

AUGUST 18, 2017

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