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

+ **W.P.(CRL) 2582/2017**

JASPREET SINGH

..... Petitioner

Through

Mr. Varun Malik with Mr. Satya
Ranjan Swain & Mr. Ajay P. Tushir,
Adv. along with the petitioner in
person

versus

THE STATE NCT OF DELHI

..... Respondent

Through

Ms. Srilina Roy, Adv. for Ms.Nandita
Rao, A.S.C. for the State

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

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07.09.2017

CrI.M.A.14759/2017 (Exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(CRL) 2582/2017

The petitioner seeks quashing of FIR No.152/2016 dated 19.04.2016 (P.S. IGI Airport) instituted for the offence under Section 25 of the Arms Act.

On 19.04.2016, while the petitioner was travelling from New Delhi to Canada, from his personal baggage, one live cartridge was detected. The petitioner is stated to be a truck driver in Canada who had come to India to visit his family.

The petitioner has a valid arms license. During the course of investigation, it was found that the cartridge which was recovered from the baggage of the petitioner was actually the cartridge which was obtained by the petitioner against his valid license.

Learned counsel for the petitioner submits that assuming that his baggage had one live cartridge, but without any firearm, it would not attract the provision of Section 25 of the Arms Act. Apart from this, there is no conscious possession of the petitioner for him to be prosecuted in the present case. For a person to be prosecuted under Section 25 of the Arms Act, possession of a cartridge would not be enough. For conscious possession, it would be necessary that requisite mental intent be there for trying the petitioner. Times without number, this Court as well as the apex Court has held that if there is no consciousness of the possession, the accused cannot be held to be even in constructive possession of weapon/cartridge.

In **Gunwatlal v. The State of Madhya Pradesh** AIR 1972 SC 175, it has been held that the possession of a firearm must be with full consciousness for any prosecution under the Arms Act.

Ms. Srilina Roy, proxy to Ms.Nandita Rao, A.S.C. submits that charge sheet has not yet been filed but is ready to be submitted. That would not make any difference, as no offence is made out under Section 25 of the Arms Act.

Taking into account the aforesaid facts, namely, the recovery of one cartridge from the baggage, the petitioner having a valid license to hold arms and there being no prior involvement of the petitioner in cases of similar nature, this Court is inclined to quash the subject FIR.

For the reasons afore-recorded, the FIR No. 152/2016 dated

19.04.2016 (P.S. IGI Airport) instituted for offence under Section 25 of the Arms Act and all the emanating proceedings therefrom are quashed.

The petition is disposed of.

ASHUTOSH KUMAR, J

SEPTEMBER 07, 2017

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