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

+ **W.P.(CRL) 2714/2017**

JAY PRAKASH PANDEY

..... Petitioner

Through: Mr.Varun Malik, Mr.Satya Ranjan
Swain, Mr.Ajay P.Tushir, Advs.

versus

THE STATE NCT OF DELHI

..... Respondent

Through: Mr.Sanjay Lao, ASC.
SI Vasant Kumar, P.S.IGIA.

CORAM:

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

O R D E R

% **18.09.2017**

CRL. M.A.15579/2017 (Exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(CRL) 2714/2017

The petitioner has sought quashing of FIR No.354/2015 dated 11.08.2015 (P.S.IGI Airport) instituted for the offence under Section 25 of the Arms Act.

The petitioner hails from Uttar Pradesh and works as a civil contractor with the PWD. While he was travelling from New Delhi to Allahabad by flight, two live cartridges were detected in his baggage.

It has been submitted on behalf of the petitioner that the cartridges are of the fire-arm which he holds against a valid arms license (License

No.1389/P.S.Rajapur) issued from the State of U.P. Learned counsel for the petitioner has submitted that there was no conscious possession of those cartridges. There was no requisite mental intent either.

Times without number, this Court has held that mere possession of a cartridge would not be enough for prosecution without the awareness of its possession.

In *Gunwantlal vs. The State of Madhya Pradesh, AIR 1972 SC 1756*, it has been held by the Supreme Court that there must be a conscious possession to entail prosecution. This view has consistently been taken by the Supreme Court as well as by this Court.

Considering the nature of accusation and the fact that those cartridges were of the fire-arm which was held by the petitioner against a valid license, this Court is of the view that no useful purpose would be served in keeping the present prosecution alive.

As such, the FIR No.354/2015 dated 11.08.2015 (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

SEPTEMBER 18, 2017

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