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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CRL.M.C. 3984/2017

FRANCISCO DEL PINO MADRONA Petitioner

Through: Mr. S.C.Chawla, Adv.

versus

NCT OF DELHI

..... Respondent

Through: Mr. M.S.Obroi, APP for State with
SI Satish Kumar, PS IGI Airport.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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16.10.2017

By this petition under Section 482 of Code of Criminal Procedure, 1932, the petitioner has prayed for quashing of the FIR No.365/2017 under Sections 25/54/59 of the Arms Act, 1959 registered at Police Station IGI Airport, New Delhi.

It is submitted that the petitioner is a Spanish National. He was travelling from Madrid to Kathmandu (Nepal) via Paris and New Delhi. He was to change flight at New Delhi. While the petitioner was passing security check area, his handbag was searched by the security personnels and one live cartridge was found in the bag. Consequently, the present FIR was registered.

It is submitted that petitioner was not in 'conscious possession' of one live cartridge, which was recovered from his bag. When

petitioner commenced his journey from Madrid (Spain) this live cartridge inadvertently remained lying in his bag. Petitioner had no clue about the presence of the live cartridge in his bag when he commenced his journey.

It is not in dispute that the petitioner was a transit passenger. After de-boarding at New Delhi Airport petitioner did not come out of the Airport. While petitioner boarding the flight No.9W-264 for Kathmandu (Nepal) with valid ticket, boarding pass and a valid passport for Seat No.29B presence of this live cartridge was noticed by the security personnels.

In Sonam Chaudhary & Ors. Vs. The State (Govt. of NCT Delhi) & Ors., MANU/DE/0026/2016, a learned single Judge of this Court, in similar circumstances, quashed the FIR under Section 25 of the Arms Act, 1959 and observed thus “Law is well settled that ‘conscious possession’ has to be established for guilt of offence punishable under Section 25 of the Arms Act.” In Gaganjot Singh Vs. State, MANU/DE/3227/2014 and Abdul Nasir Barich Vs. The State (NCT of Delhi), MANU/DE/3642/2016 also similar view was taken and FIRs were quashed.

In the present case, the petitioner is a Spanish National. He was going from Madrid (Spain) to Kathmandu (Nepal) via Paris (France) and New Delhi. He was a transit passenger at Indira Gandhi International Airport, New Delhi. Live cartridge was found in the handbag for the first time. The plea taken by the petitioner that cartridge remained lying in his baggage when he commenced his journey from Madrid (Spain) is a plausible plea and possible, inasmuch as, nothing has surfaced in the investigation till now that the petitioner was in 'conscious possession' of the solitary live cartridge found in his hand bag.

For the foregoing reasons, FIR No.365/2017 under Sections 25/54/59 of the Arms Act, 1959 registered at Police Station IGI Airport, New Delhi is quashed.

The Investigating Officer is present in Court and has returned the passport of the petitioner to him, in the presence of Guramarpreet Chadha, Administrative Officer of Embassy of Spain.

The petition is disposed of in the above terms. Dasti.

A.K. PATHAK, J

OCTOBER 16, 2017/ak