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

+ CRL.M.C. 90/2019

RAMANDEEP SINGH

..... Petitioner

Through: Mr. Akshay Bhandari, Mr. Rohit
Sharma and Mr. Jaspreet Singh Rai,
Advs.

versus

STATE NCT OF DELHI & ANR

..... Respondents

Through: Mr. Mukesh Kumar, APP for State

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

% **11.01.2019**

1. By this petition under Section 482 Cr.P.C., petitioner has prayed that FIR No. 230/17 under Sections 25/54/59 of the Arms Act, 1959 registered at police station IGI Airport, New Delhi on the complaint of Mr. Diwakar Bhatnagar, Assistant Station Manager, Malaysia Airlines, IGI Airport, New Delhi, may be quashed.
2. Brief facts are that on 17.06.2017 petitioner was going to Kuala Lumpur, Malaysia from Delhi. He had boarded Flight No. MH191 of Malaysia Airlines. However, during the x-ray screening one live bullet was deducted in the checked-in-baggage of petitioner.
3. Learned counsel for the petitioner contends that petitioner had borrowed 'Sikhi kit' from his cousin, namely, Amrit Pal Singh who was having a valid arms licence for possession of revolver/pistol. Learned counsel submits that petitioner kept his articles in the 'Sikhi Kit; unaware of

the fact that one live bullet was lying in the pocket of the said kit. Petitioner kept the said 'kit' in his checked-in-baggage. Petitioner was not in 'conscious possession' of one solitary live bullet found in the 'Sikhi Kit',

4. Learned counsel has placed reliance on Chan Hong Saik Thr. Spa: Arvinder Singh Vs. State & Anr. 2012 (130) DRJ 504, Kamlesh Ishwarbhai Patel Vs. UOI & Ors. 2012 (130) DRJ 511 and Dhanwant Kaur Vs. State & Anr. 2016 SCC OnLine Del 5492 to contend that ingredients of offence under Section 25 of the Arms Act are not attracted in absence of the 'conscious possession' of the cartridges.

5. Learned APP, who is assisted by the Investigating Officer, submits that Investigating Officer has already recorded statement of Amrit Pal Singh, inasmuch as, has verified the arms licence of Amrit Pal Singh.

6. The plea taken by the petitioner is a plausible plea that when he started his journey, he did not notice the live cartridge, which was lying in the 'Sikhi Kit', which he had borrowed from his cousin. In order to attract the ingredients of Section 25 of the Arms Act, it is necessary that accused is in 'conscious possession' of the arms and ammunition. In this case, there is nothing to indicate that petitioner was in 'conscious possession' of one live cartridge, which was recovered at the IGI Airport from his checked-in baggage.

7. In Sanjay Dutt Vs. State through CBI, Bombay, MANU/SC/0554/1994, Supreme Court held, thus, "the meaning of the ingredient of 'possession' of any such arms etc. is not disputed. Even though the word 'possession' is not preceded by any adjective like 'knowingly', yet it is common ground that in the context the word 'possession' must mean possession with the requisite mental element, that

is, conscious possession and not mere custody without the awareness of the nature of such possession. There is a mental element in the concept of possession.”

8. During the investigation, no material could be collected by the Investigating Officer to show that the petitioner was in ‘conscious possession’ of one live cartridge.

9. For the foregoing reasons, aforesaid FIR and the consequent proceedings emanating therefrom, are quashed.

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

11. Dasti.

A.K. PATHAK, J.

JANUARY 11, 2019

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