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

+ **W.P.(CRL) 152/2019**

PARMDEEP SINGH SRAN

..... Petitioner

Through: Mr Ajay P. Tushir and Mr Varun
Malik, Advocates.

versus

THE STATE (NCT OF DELHI)

..... Respondent

Through: Ms Kamna Vohra, ASC for State.
SI, Ajay, PS IGI Airport.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **29.08.2019**

1. The petitioner has filed the present petition, *inter alia*, seeking FIR No.335/2018 under Section 25 of the Arms Act, 1959 registered at PS Indira Gandhi International Airport (IGI Airport), be quashed.
2. The petitioner was to board a flight (British Airways Flight No.BA 256) from IGI Airport to London on 29.06.2018. While scanning his baggage, it was found that it contained a live cartridge of 7.63 KF, to be used in a .32 bore weapon. The petitioner was not in possession of any valid document for carrying the above-mentioned cartridge. Accordingly, the said FIR was registered
3. It is the petitioner's case that he had used the luggage belonging to his father, who held a valid arms licence for a .32 bore weapon. The status report indicates that the said licence was under renewal at the material time.

However, it also indicates that the petitioner's father (Shri Gurpal Singh) had purchased 20 rounds of ammunition for a .32 bore weapon on 01.10.2014.

4. The petitioner was not carrying any weapon and claims that he was completely unaware of the presence of the cartridge in his baggage.

5. It is clear from the above that the ammunition found in the baggage of the petitioner has been accounted for. It is also clear from the facts brought on record that the petitioner was not conscious of the fact that his baggage contained the said cartridge. The question that whether in such circumstances, any culpability can be attributed to the accused has been dealt with in number of cases. In ***Manuel R. Encarnacion v. State (NCT of Delhi) & Anr.: CRL. M.C. No. 1455/204 decided on 22.05.2014*** and ***Chang Hong Saik through SPA: Arvinder Singh v. State & Anr.: 2012 (130) DRJ 504***, the Coordinate Benches of this Court had held that an offence was not made out under similar circumstances. The decision in the case of ***Chang Hong Saik*** (*supra*) was overruled to the extent that it had considered a live cartridge as a 'minor ammunition'. This was overruled by the Division Bench of this Court in ***Shri Gaganjot Singh v. State: W.P.(CRL.) 1169/2014 decided on 01.12.2014***. However, the Division Bench in ***Gaganjot Singh*** (*supra*) also held that unless it is established that the accused was conscious of carrying the ammunition, an offence could not be made out. The Division Bench had also relied upon the decision of the Supreme Court in ***Gunwantlal v. The State of Madhya Pradesh (1972): AIR SC 1756*** and ***Sanjay Dutt v. State Through CBI. Bombay (II): (1994) 5 SCC 410***.

6. This Court is of the view that said decisions are equally applicable to the facts of the present case, as there is no material to doubt the petitioner's claim that he was unaware that his baggage contained a live cartridge. There is also no reason for the petitioner to carry one live cartridge. Further, as noticed above, the source of the ammunition has been sufficiently explained.

7. In view of the above, the petition is allowed and FIR No. 335/2018 under Section 25 of the Arms Act, 1959 registered at PS IGI Airport and all proceedings emanating therefrom, are quashed.

VIBHU BAKHRU, J

AUGUST 29, 2019
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