

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Order: February 06, 2019

+ CRL.M.C. 671/2019 and CrI.M.A. 2755/2019

AJIT SINGH

..... Petitioner

Through: Ms. Namrata Malik, Advocate

Versus

STATE

..... Respondent

Through: Mr. M.P. Singh, Additional Public
Prosecutor for State with SI Vasant
Kumar.

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR
ORDER
(ORAL)

Quashing of FIR No. 02/2015, under Section 25 of Arms Act, registered at police station IGI Airport, Delhi is sought on the ground that petitioner, was not in conscious possession of six live cartridges at caliber 0.32 mm.

Charge sheet in this case has been filed and its bare perusal reveals that petitioner had admitted his guilt of carrying ammunition in his hand baggage but could not produce any authorization or valid Arms License to validate the possession of ammunition in India. It is also noticed in the charge sheet that lateron, petitioner had produced his license, which was got verified from concerned authority and found to be valid and petitioner

was returned his passport and was allowed to travel on the next date of this incident.

Learned counsel for petitioner submits that inadvertently six live cartridges were left in his hand bag while he was travelling to Moscow to meet his fiancée and since the possession of six live cartridges was not conscious, therefore, FIR of this case and the proceedings emanating therefrom ought to be quashed. To submit so, reliance is placed upon decision of 4th October, 2016 of a Coordinate Bench of this Court in Crl.M.C. 3593/2016 “*Dhanwant Kaur Vs. State & Anr.*”.

Learned Additional Public Prosecutor for respondent-State submits that charge sheet has been filed in this case and so, petitioner ought to be relegated to raise the plea taken herein before the trial court at the charge stage.

Upon hearing and on perusal of FIR, charge sheet and the decision cited, I find that in a similar case, a Coordinate Bench of this Court had exercised its inherent jurisdiction while relying upon Supreme Court’s decision in ‘*Gunwantal Vs. State of Madhya Pradesh* (1972) 2 SCC 194 to quash the FIR although the charge-sheet was filed. In the instant case, I find that possession of six live cartridges by petitioner was apparently not conscious. Hence the prosecution of petitioner in this FIR would be an exercise of futility, as the necessary ingredient of the offence alleged are lacking.

Accordingly, this petition is allowed, subject to costs of ₹50,000/- to be deposited by petitioner with *Prime Minister’s National Relief Fund* within two weeks from today. Upon placing on record the receipt of costs,

FIR No. 02/2015, under Section 25 of Arms Act, registered at police station IGI Airport, Delhi and the proceedings emanating therefrom shall stand quashed *qua* petitioner.

This petition and application are accordingly disposed of.

Dasti.

(SUNIL GAUR)
JUDGE

FEBRUARY 06, 2019

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