

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Order: July 11, 2019

+ **CRL.M.C. 1158/2019 & CRL.M.A. 4500/2019**

VED PRAKASH MISHRA Petitioner

Through: Mr. Manish Vashisht, Advocate.

Versus

STATE THROUGH: P.S. IGI AIRPORT Respondent

Through: Mr. Izhar Ahmad, Additional
Public Prosecutor for State with SI
Rajiv Gulati.

CORAM:
HON'BLE MR. JUSTICE SUNIL GAUR

ORDER
(ORAL)

Quashing of FIR No. 211/2018, under Sections 25/54/59 of Arms Act, 1959 registered at Police Station IGI Airport, Delhi is sought in this case, while relying upon Supreme Court's decision in '*Anand Kumar Mohatta and Anr. Vs. State (Govt. of NCT of Delhi Department of Home and Anr*' 2018(14) SCALE 756.

Learned counsel for petitioner submits that petitioner himself was unaware of the presence of 4 live cartridges in his hand bag at the time of his travel. It is submitted on behalf of petitioner that it was an act of sheer negligence on his part and he ought to have checked the handbag before leaving for the airport. It is pointed out that petitioner was travelling to Lucknow from Delhi on an official work for Competition Commission of

India (herein after referred to as the Commission) being the Director (Law) of the Commission in a matter which was suddenly reflected in the cause-list of the Hon'ble High Court. So, it is submitted that there was no intention on his part to commit offence under Sections 25/54/59 of the Arms Act, 1959.

Perusal of status report reveals that petitioner had valid arms license for the weapon in question. The pertinent observations of Supreme Court in '*Anand Kumar Mohatta (Supra)*' are as under:-

"There is nothing in the words of this Section which restricts the exercise of the power of the Court to prevent the abuse of process of court or miscarriage of justice only to the stage of the FIR. It is settled principle of law that the High court can exercise jurisdiction under Section 482 of Cr.P.C even when the discharge application is pending with the trial court. Indeed, it would be a travesty to hold that proceedings initiated against a person can be interfered with at the stage of FIR but not if it has advanced, and the allegations have materialized into a charge sheet. On the contrary it could be said that the abuse of process caused by FIR stands aggravated if the FIR has taken the form of a charge sheet after investigation. The power is undoubtedly conferred to prevent abuse of process of power of any court".

Upon hearing and on perusal of the FIR of this case, status report and the decision cited, I find that petitioner was not in conscious possession of 4 live cartridges found in his baggage at IGI Airport, Delhi. Applying the dictum of Supreme Court's decision in '*Anand Kumar Mohatta (Supra)*' to the facts of this case, I find that continuance of proceedings arising out of the FIR in question would be an exercise in futility.

Accordingly, this petition is allowed subject to costs of ₹50,000/- to be deposited by petitioner with *Prime Minister's National Relief Fund* within a week from today. Upon placing on record the proof of deposit of costs within a week thereafter and handing over its copy to the Investigating Officer, FIR No. 211/2018, under Sections 25/54/59 of Arms Act, 1959 registered at Police Station IGI Airport, Delhi and the proceedings emanating therefrom shall stand quashed.

This petition and application are accordingly disposed of.

Dasti.

JULY 11, 2019

p'ma

**(SUNIL GAUR)
JUDGE**



सत्यमेव जयते