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

+ CRL.M.C. 4485/2019 & Crl.M.A. 35308/2019

PATRICK KERR

..... Petitioner

Through

Mr.Aman Bhalla, Adv. with
Mr.Navneet Thakran &
Mr.Abhimanyu Redhu, Advs.

versus

STATE OF N.C.T OF DELHI

..... Respondent

Through

Mr.Hirein Sharma, APP for State.
SI Satish PS IGI Airport.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

ORDER

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11.09.2019

Vide the present petition, the petitioner seeks quashing of FIR No.127/2016 dated 31.03.2016 registered at Police Station IGI Airport for the offence punishable under section 25 of Arms Act, 1959 and the emanating proceedings thereto.

The present petition is filed on the ground that petitioner had no knowledge about the presence of any bullet/live cartridge in his bag. He at all times been the holder of a valid arms license which allowed him to carry the permissible amount of arms and ammunition with him including the type allegedly recovered. At the stage of preliminary investigation, he gave details of a valid All-India License in his favour and showed all the relevant soft copies of the same to the I.O. The petitioner at the time of incident did not have in possession his arms license for the reason that being in the process of transfer from the Union Territory of Chandigarh to Gurugram, Haryana, and the same was in the custody of the relevant authority under Rule 62(4) of Arms Rules, 1962. The said transfer application has been

allowed and even as on the date of incident, the petitioner has a valid All-India arms license.

Learned counsel further submits that the petitioner did not try to conceal the ammunition, therefore, there was no mens rea on his part as required for commission of an offence under section 25 of Arms Act, 1959.

On the other hand, learned APP appearing on behalf of the State has fairly conceded that the petitioner has All India arms license, however, the arms and ammunition without the permission of the authority is not allowed to be carried at the airport. Since the cartridge were caught at the airport which are not permissible, the present case was registered against the petitioner.

The undisputed fact is that the petitioner was having All India license of arms and ammunition on the date of incident. Moreover, the ammunition recovered from the petitioner is within the permissible limit.

In view of above, if the evidence of the prosecution go unrebutted still the petitioner cannot be convicted for the offence punishable under section 25 of Arms Act, 1949. Therefore, there is no purpose to continue the present case against the petitioner.

Accordingly, FIR No.127/2016 dated 31.03.2016 registered at Police Station IGI Airport for the offence punishable under section 25 of Arms Act, 1959 and the emanating proceedings thereto are hereby quashed.

The petition is, accordingly, allowed and disposed of.

The pending application also stands disposed of.

SURESH KUMAR KAIT, J

SEPTEMBER 11, 2019/ab