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

Date of decision: 29.01.2020

+ CRL.M.C. 485/2020

MANAB KUMAR SINGH

..... Petitioner

Through: Mr. Satvinder Singh, Adv.

versus

STATE & ANR.

..... Respondents

Through: Mr. Izhar Ahmad, APP for State with
SI Rajdeep Singh, PS – IGI Airport
and Inspector Vinod, PS – Bharat
Nagar

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T (O R A L)

CRL. M.A. 2012/2020

1. Allowed, subject to all just exceptions.
2. Application is disposed of.

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3. Vide the present petition, the petitioner seeks quashing of FIR No. 319/2018 dated 19.06.2018 registered at Police Station – IGI Airport, New Delhi and all proceedings emanating therefrom.
4. The present petition is filed under Section 482 Cr.P.C. by stating that

the petitioner is having valid Armed License No.01-01/2016, PS-Belhar, UID No.051421000057422017 issued in his name and same has been verified from District Arms Magistrate, Banka, Bihar. The said Arms License is valid till 2021. The petitioner purchased one N.P. Bore (0.32 Bore) Revolver No.FG.78796 from Field Gun, Kanpur (U.P.). The photocopy of the Arms License is annexed with the petition as Annexure-P4 (colly) and petitioner had purchased 40 bullets of .32 bore on 19.04.2017 from Capital Gun House, Patna, Bihar and the said purchase was entered into his arms licence at Page No.25.

5. It is submitted that petitioner was travelling from Delhi to Patna by Jet Airways Flight No.9W 121, STD 16:15 hours vide Seat No.38B. During physical checking of his handbag, 01 live and 04 empty fire cartridges of 325 mm Caliber, engraved on the bottom of all the cartridges “32 S & W.L.” were recovered and the concerned CISF personnel informed the local police in this regard and petitioner was brought to IGI Airport Police Station, where an FIR No.319/2018 dated 19.06.2018 under Section 25 Arms Act was registered against the petitioner.

6. It is contended that petitioner holds a valid armed License No.01-01/2016, Police Station - Belhar, UID No.051421000057422017 and the

recovered cartridges belonged to his licensed weapon and the license is valid in the State of Bihar only. He further states that the alleged bullets remained in his bag inadvertently and he did not have the knowledge that the cartridges have been left in the bag and he came to know about the same at the Airport only when the same were detected by the security personnel during screening of his hand bag. Petitioner was then subjected to interrogation wherein, the petitioner duly explained the situation and apprised the investigating officer that it is a case of inadvertent mistake and sheer oversight. Since the petitioner did not have any intention or requisite *mens rea* to carry the said cartridges for harming anybody else, the petitioner was let off after sometime. Thereafter, the investigating agency proceeded to file a charge sheet/final report before the Ld. Additional Chief Metropolitan Magistrate, Patiala House Courts, New Delhi for prosecuting the petitioner only under Section 30 of the Arms Act as Section 25 thereof was deleted.

7. While arguing the case for the petitioner, learned counsel for the petitioner has relied upon decision of this Court delivered in ***Chan Hong Saik vs. State and Anr., 2012 (130) DRJ 504*** (decided on 02.07.2012 in CRL.M.C. 3576/2011), whereby the Court opined that *a single cartridge*

without firearm is a minor ammunition which is protected under clause (d) of Section 45 of the Arms Act.

8. In addition to above, learned counsel also relied upon the other cases decided by different High Court giving the same opinion. However, the fact remains that the judgment delivered by this Court dated 02.07.2012 was referred to the larger Bench and vide judgment dated 06.01.2016 in case of ***Dharmendra vs. State in CRL.M.C. 4493/2015***, the Court opined that single cartridge is ammunition and comes under the Arms Act, 1959.

9. The fact remains that this Court in ***Chan Hong Saik (Supra)*** quashed the FIR by holding that *a single cartridge without firearm is a minor ammunition which is protected under clause (d) of Section 45 of the Arms Act*. The larger Bench referred above did not agree with the opinion of this Court but however, opined that the possession of the ammunition was unconscious and there was no arm with the accused and there was no threat to anyone, therefore this Court has rightly quashed the FIR.

10. In the case in hand, it is not the case of the prosecution that there was any fire arm recovered from the petitioner or there was any threat to anyone at the Airport.

11. Thus, in the present case also, the possession of the ammunition was

unconscious and there was no threat to anyone.

12. Accordingly, for the reasons afore-recorded, the FIR No. 319/2018 dated 19.06.2018 registered at Police Station – IGI Airport, New Delhi and all proceedings emanating therefrom are hereby quashed.

13. The petition is allowed and disposed of accordingly.

Dasti.

(SURESH KUMAR KAIT)
JUDGE

JANUARY 29, 2020

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