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

Date of decision: 30.01.2020

+ CRL.M.C. 509/2020

RAJESH SINGH

..... Petitioner

Through: Mr. A.K. Singh, Md. Kamran Khan,
Mr. A. Imran and Mr. Ajeet Kumar
Sharma, Advs.

versus

STATE & ANR.

..... Respondents

Through: Mr. Izhar Ahmad, APP for State

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

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

CRL. M.A. 2140/2020

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. 117/2019 registered at Police Station – Domestic Airport, IGI, New Delhi and all proceedings emanating therefrom.
4. The present petition is filed under Section 482 Cr.P.C. by stating that

the petitioner on 13.09.2019, received message that his *Bua* has expired, after receiving of message in respect of the death of his *Bua* (Father's sister) he quickly took a ticket of flight from IGI New Delhi to Patna. Petitioner in a haste manner after taking ticket of flight rushed to the IGI Airport New Delhi to board flight for Patna. Petitioner after reaching the IGI Airport, New Delhi, stood in queue for checking. Petitioner while standing in queue, was awaiting his turn to get checked by the security personnel the IGI Airport New Delhi, in between when he put his hand inside the pocket of his pant and found that inadvertently some live cartridges were in his pocket and that the petitioner took out the above said live cartridge and thereafter, he immediately handed over the same to the security personal ASI/Exe Yogesh Yadav CISF before putting his bag for screening in X-Bis machine.

5. Case of the prosecution is that on inquiry it was found that he is not having any valid license /document to carry the above mentioned ammunition. Hence, Rajesh Singh along with live cartridges was handed over to the P.S.Domestic Airport IGI for further necessary legal action. It is submitted that a complaint vide DD No.5A was made and the same was entrusted to the duty officer for further action as per direction of SHO. Complainant ASI/Exe Yogesh Yadav, has handed over four live cartridges

of 7.65 MM stating that the same have been handed over by alleged Rajesh Singh R/o.H.No.03,Sector -29,Faridabad ,Haryana at SHA, T1D who was going from Delhi to Patna by Indigo Airlines flight No.6E-653. It is alleged that passenger Rajesh Singh had in his possession illegal Ammunitions i.e. 4 Cartridges. Hence, committed an offence U/s 25 Arms Act. It is further submitted that the licence holder Rajesh Singh, on 13.09.2019 had gone to airport after taking air ticket to travel by flight to Patna. That the security agencies upon checking found 4 live cartridge (7.65mm) Caliber, therefore, a Case No.117 dated 13-09-2019, u/s 24/54/59 Arms Act was lodged at Police Station -Domestic Airport, New Delhi against the license-holder, which is under investigation .

6. While arguing the case for the petitioner, learned counsel 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.*

7. 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.

8. 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.

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

10. Thus, in the present case also, the possession of the ammunition was unconscious and there was no threat to anyone.

11. Accordingly, for the reasons afore-recorded, the FIR No. 117/2019 registered at Police Station – Domestic Airport, IGI, New Delhi and all proceedings emanating therefrom are hereby quashed.

12. The petition is allowed and disposed of accordingly. Pending application also stands disposed of.

Dasti.

(SURESH KUMAR KAIT)
JUDGE

JANUARY 30, 2020

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