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

+ **W.P.(CRL) 2857/2019**

SHARVAN KUMAR

..... Petitioner

Through Mr L.K. Giri, Advocate.

versus

STATE

..... Respondent

Through Mr R.S. Kundu, ASC for State with
Mr Hitesh Vali, Advocate.
SI Vipin Kumar, P.S. IGI Airport.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **13.03.2020**

1. The petitioner has filed the present petition, *inter alia*, praying that FIR No. 238/2018 under Section 25 of the Arms Act, 1959 registered with P.S. IGI Airport and all proceeding emanating therefrom, be quashed.
2. The said FIR was registered as one live cartridge and one empty cartridge was found in the petitioner's hand bag while the same was being checked by the security staff on 12.05.2020 at the IGI Airport. At the material time, the petitioner was proceeding to board a flight from Delhi to Frankfurt. It is the petitioner's case that he had borrowed the hand bag from his brother and was not aware that an empty cartridge and a live cartridge remained in the said hand bag.
3. The status report has been filed which indicates that the facts, as set out by the petitioner, have been verified. It has been verified that at the

material time the petitioner's brother held a valid arms licence for a 0.32 bore pistol, which corresponds to the bore of the cartridges recovered in the petitioner's hand bag.

4. It is well settled that where a person is not conscious of the ammunition in his possession, an offence under Section 25 of the Arms Act, 1959 would not be made out. (See: ***Surender Kumar @ Surender Kumar Singh v. The State (GNCT of Delhi) & Anr.: W.P. (Crl) 2143/2019 decided on 27.09.2019; Aruna Chaudhary v. State & Ors.: W.P. (Crl.) 1975/2019 decided on 25.09.2019 and Paramdeep Singh Sran v. The State (NCT of Delhi) W.P.: (Crl) 152/2019 decided on 29.08.2019***)

5. Given the circumstances of this case, this Court finds no reason to disbelieve the petitioner's statement that he was not aware that the cartridges had remained in his hand bag.

6. The learned counsel appearing for the respondent, on instructions, does not oppose the quashing of the FIR in question.

7. In view of the above, the present petition is allowed and the FIR in question (FIR No. 238/2018 under Section 25 of the Arms Act, 1959 registered with P.S. IGI Airport) and all proceedings emanating therefrom, are quashed.

VIBHU BAKHRU, J

MARCH 13, 2020

pkv