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

Date of decision: 16.02.2021

+ CRL.M.C. 467/2021

UMRAO SINGH

..... Petitioner

Through Mr. Chandra Shekhar, Mr. Prashant
Shekhar and Mr. Ashwani Saini,
Advs.

versus

STATE NCT OF DELHI, THROUGH ITS SECRETARY (HOME)
& ANR. Respondents

Through Mr. Amit Chadha, APP for State with
SI Kedar Yadav, PS Domestic Airport

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

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

The hearing has been conducted through video conferencing.

Crl. M.A.2443/2021 (Exemption)

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

CRL.M.C. 467/2021 & Crl.M.A.2442/2021 (stay)

3. Vide the present petition, the petitioner seeks quashing of FIR No. 18/2019, registered at Police Station – Domestic Airport, Delhi for the offences punishable under Section 25/54/59 Arms Act, 1959 and all proceedings emanating therefrom.
4. Brief facts of the case are as under:

“Petitioner and his friend Shri Tejender Singh were about to take flight from Domestic Airport Delhi to Goa by Indigo Airlines on 13.02.2019. Both, the petitioner and his friend Shri Tejender Singh were travelling with the same PNR No. JM3W2E Indigo Airlines Flight No. 6E399. The baggage (bag) carried the tag No. 6E-802409 in the petitioner's name though the said bag belonged to Tejender Singh but contained the belongings of both of them. During search of the petitioner's bag at level-2 on 13.02.2019, some object giving rise to suspicion of ammunition was seen and said suspicion led to physical search of the bag. Consequently, one cartridge bearing the engraving, namely ‘K.F.32 S & W.L’ was recovered. The concerned officer (Sr. Associate (ILBIS), DIAL (Delhi International Airport Ltd.) reported on 13.02.2019 the matter to SHO, Delhi Police, P.S. I.G.I. Airport Terminal-1D, New Delhi, for taking action pursuant to AVSEC Circular No. 08/2017 issued by Govt. of India dated 04.07.2017 because the petitioner himself could not produce the valid license authorizing him to keep the aforesaid cartridge. Whereas the petitioner's friend namely Shri Tejender Singh did intimate that the above referred baggage (bag) belonged to him but the same contained the belongings of both the passengers namely the petitioner and of Tejender Singh. That upon registration of FIR under Section 25/54/59 Arms Act, the IO commenced the investigation and Officer gave the action taken Report to Vigilance & Security Deptt. of Delhi International Airport Authority Ltd. During the course of investigation, the statement of Tejender Singh was recorded on 13.02.2019 and Tejender Singh most fairly admitted that the bag belonged to him and the cartridge remained in the bag unknowingly by mistake. The petitioner and Tejender Singh, both gave undertakings to the investigating officer to appear before the police officer or court as and when required. During the course of investigation, Tejender Singh handed over on 15.02.2019 the photocopy of the license No.

DM/RPR/DUP/RPNG 1017/426, issued in his name authorizing him to carry the Revolver and its cartridges all over India and the I.O. prepared the Seizure Memo thereof in response to the inquiry (vide letter dated 15.02.2019) by Investigating Officer, the Assistant Commissioner wrote back on 26.03.2019 to certify the that arms license No. DM/RPR/DUP/RPNG 1017/426, (old license No. 2525) PS Rupnagar, stands in the name of Shri Tejender Singh. Investigating Officer finally filed on 9.09.2019 the charge sheet dated 27.07.2019 under section 25 of Arms Act before the Court of Ld. M.M. Dwarka Courts, Delhi.”

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

6. 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.

7. 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.

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

9. Accordingly, for the reasons afore-recorded, the FIR No. 18/2019, registered at Police Station – Domestic Airport, Delhi for the offences punishable under Section 25/54/59 Arms Act, 1959 and all proceedings emanating therefrom are hereby quashed.

10. The petition is allowed and disposed of accordingly.

11. Pending application also stands disposed of.

12. Order be uploaded on the website of this Court forthwith.

(SURESH KUMAR KAIT)
JUDGE

FEBRUARY 16, 2021/rk