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

Date of decision: 18.05.2021

+ **W.P.(CRL.) 744/2021**

NARENDRA KUMAR GUPTA

..... Petitioner

Through Mr. Ajay P. Tushir, Adv. with
Mr. Varun Malik, Adv.

versus

STATE OF NCT OF DELHI

..... Respondent

Through Ms. Kamna Vohra, ASC 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. 5356/2021

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

W.P.(CRL.) 744/2021

1. The present petition is filed under Articles 226/227 of the Constitution of India read with section 482 Cr.P.C. seeking quashing of FIR No. 265/2019 dated 17.06.2019 registered at Police Station – I.G.I. Airport, for the offences punishable under Section 25 Arms Act, 1959 and all proceedings emanating therefrom.

2. The petitioner submits that on 17.06.2019 at about 1045 hours, when petitioner was waiting for his flight from Delhi to Lucknow by Vistara Airlines, flight no.UK-641, his baggage was put for screening wherein one live cartridge of .32bore with S&WL (KF) live ammunition was detected. However, he was not in conscious possession of the live bullet detected, since the petitioner could not produce any valid license for the ammunition, the present FIR was registered.

3. During interrogation, the petitioner disclosed that he had a valid arms license issued by the State of Uttar Pradesh. During further course of investigation, petitioner produced a copy of his Arms License bearing number 447/PS Karvi, Chitrakoot, UP which was verified from the District Magistrate, Chitrakoot, UP and found to be genuine and the said arm license is valid in all over India. Therefore, the present FIR deserves to be quashed.

4. It is well settled that where a person is not conscious of the ammunition in his possession, an offence of under Section 25 of the Arms Act, 1959 would not be made out in view of judgments ***Surender Kumar @ Surender Kumar Singh vs. The State (GNCT of Delhi) & Anr.: W.P.(Crl.) 2143/2019 decided on 27.09.2019; Aruna Chaudhary vs. 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), therefore, Section 25 Arms Act was converted into Section 30 Arms Act as the Petitioner was holding a valid Arms License.

5. 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.

6. 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.

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

8. Accordingly, for the reasons afore-recorded, FIR No. 265/2019 dated 17.06.2019 registered at Police Station – I.G.I. Airport, for the offences punishable under Section 25 Arms Act, 1959 and all proceedings emanating therefrom are hereby quashed.

9. The petition is allowed and disposed of accordingly.

(SURESH KUMAR KAIT)
JUDGE

MAY 18, 2021/ab

