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

Order reserved on :02/06/2022

Order pronounced on :20/07/2022

+ **W.P. (CRL.)108/2022**

MS. YAKA DODUM

...PETITIONER

Through: Mr. S.V. Vats and Mr. Akash
Nawariya, Advs.

versus

STATE (NCT OF DELHI)

...RESPONDENT

Through: Mr. Sanjay Lao, Standing
Counsel With Mr. Karanjeet
Adv. SI Prem Narayan, PS IGI
Airpor

CORAM:

HON'BLE MS. JUSTICE POONAM A. BAMBA

POONAM A. BAMBA, J :

1.0 This is a petition under Articles 226 & 227 of the Constitution of India & u/S 482 of Code of Criminal Procedure Code seeking quashing of FIR No. 0261/2021 dated 15.09.2021 u/Ss 25/54/59 Arms Act, P.S. I.G.I. Airport, Delhi.

2.0 It is submitted that on 15.09.2021, the petitioner was found in possession of two live pieces of ammunition i.e., Mark 6.35 BRS & B: Reg at Terminal T-3 of IGI Airport, as she was about to board a flight from Delhi to Amritsar, on which the impugned FIR was registered against the petitioner.

2.1 It is submitted that the petitioner along with her family is living in hilly and forest area of Arunachal Pradesh, which is frequently thronged by wild animals. For their protection, the petitioner and her



husband Shri Karling Dodum had taken Arm Licence being A/L. No.III/ADC/CTJ/ 31/2013 and III/ADC/CTJ//10/2013, respectively from the office of the “Deputy Commissioner, East Kameng, District Seepa (Arunachal Pradesh) which were got renewed by them as per law, from time to time. The petitioner always carried loaded pistol in her handbag alongwith few spare live cartridges to meet any threat / eventuality.

2.2 It is submitted that on 15.09.2021, the petitioner was scheduled to travel early morning to Amritsar for which, she had to first take an early morning ‘Indigo’ flight from Mohanbari, Dibrugarh Airport, Assam for I.G.I Airport, New Delhi ; and thereafter to further take a “Vistara” flight from Delhi to Amritsar, Punjab. To reach Dibrugarh Airport from her place, the petitioner had to travel a distance of about 175 Kilometres and was therefore, required to start very early in the morning. The petitioner could not pack her bags the previous night i.e. on 14.09.2021 and the same was packed hurriedly in the morning on 15.09.2021. The time being short, mistakenly two live cartridges/ammunitions were left in her bag although, she had removed the pistol prior to undertaking the journey.

2.3 It is also submitted that the petitioner’s handbag was cleared at Mohanbari Airport, Dibrugarh Assam while boarding “Indigo” flight to New Delhi. However, during security check for the further flight from Delhi to Amritsar, the live cartridges were detected at T-3, IGI Airport, Delhi.



2.4 It is submitted that the cartridges recovered from the possession of the petitioner belonged to the pistol / weapon of her husband duly purchased by him on his valid Arm's Licence and which was being used by her ; and that the live cartridges thereof, were inadvertently left in her hand bag. The said possession of the live cartridges in her bag, was not in the knowledge of the petitioner. Therefore, the petitioner, who was not in conscious possession of the live cartridges, could not be charged with the offence in the aforesaid FIR. Reliance in support is placed upon a judgment of Hon'ble Apex Court in **Gunwantlal Vs. The State of Madhya Pradesh: (1972) 2 SCC 194** and judgments of Delhi High Court in **Ranvir Arora Vs. State of NCT of Delhi Crl. M.C 729/2017 dated 02.05.2017** and **Tarun Raghav Vs. State, Govt. Of NCT of Delhi 2021 SCC OnLine Del 277 dated 02.02.2021**.

3.0 The State vide its reply dated 14.03.2022 has mentioned that a copy of Arm's Licence No.A/L No.III/ADC/CTJ/31/13 dated 20.08.2013 produced by the petitioner was sent for verification to the Deputy Commissioner, East Kameng Distt, Seppa, Arunachal Pradesh. District Magistrate vide its reply dated 28.12.2021, has confirmed that the said Arm Licence No.A/L No.II/ADC/CTJ/31/13 dated 20.08.2013 has been issued to the petitioner herein by ADC Chayangtajo. It is further mentioned that said licence has been renewed upto 31.12.2023.

3.1 Reply also mentions that sale of the said cartridges was also got verified from M/s Mangha Arma Corporation who confirmed that the said cartridges were sold to the petitioner on her licence no.III/ADC/CTJ/31/13



4.0. I have duly considered the submissions made by both the sides.

5.0. It is the petitioner's case that on 15.09.2021, she was to take an early morning Indigo flight from Mohanbari, Dibrugarh Airport, Assam for IGI Airport, New Delhi ; thereafter, to further take a Vistara flight from Delhi to Amritsar, Punjab. The petitioner packed her travelling baggage hurriedly, the same morning i.e. on 15.09.2021 ; although, she had removed the weapon from her hand bag, mistakenly two live cartridges remained in the hand bag. Thereafter, during screening at IGI Airport, Delhi, two live cartridges were recovered from her hand-baggage and as the petitioner could not produce any valid arm license, the present FIR no. 0261/2021, u/Ss 25/54/59 Arms Act. was registered against her at PS IGI Airport.

6.0. The Petitioner has sought quashing of the aforesaid FIR invoking inherent powers of this Court under Sec. 482 Cr.P.C.

7.0. It is a settled position of law that inherent powers conferred on this Court under Section 482 Cr.P.C are of wide amplitude but the same have to be exercised with care and caution. This power can be used for twin objectives i.e. to prevent abuse of process of law ; and to secure the ends of justice/to do complete and substantial justice.

8.0. As per the FIR, as the petitioner could not produce valid arm license, on recovery of two live cartridges from her hand baggage during screening at IGI Airport, New Delhi, the present FIR came to be registered.



8.1. As per the Status report, during investigation, petitioner's arms licence and purchase of two live cartridges were got verified. Status report mentions that the petitioner holds a valid Arm Licence No. A/L No.II/ADC/CTJ/31/13 dated 20.08.2013 issued by ADC Chayangtajo and said licence has been renewed upto 31.12.2023. Even, purchase of recovered two live cartridges on her licence no.III/ADC/CTJ/31/13, has been verified from M/s Mangha Arma Corporation.

8.2. The petitioner has stated that she always carried loaded pistol in her handbag alongwith few spare live cartridges to meet any threat / eventuality. She had removed the fire arm/pistol from her handbag before undertaking journey, but mistakenly, two live cartridges remained in her bag, of which she had no knowledge.

9.0. Section 25 of Arms Act reads as under:

Punishment for certain offences—

(1) Whoever—

(a) manufactures, sells, transfers, converts, repairs, tests or proves, or exposes or offers for sale or transfer, or **has in his possession for sale, transfer, conversion, repair, test or proof, any arms or ammunition in** contravention of section 5; or

9.1. Nature of possession for commission of offence under Section 25 Arms Act, came to be interpreted in catena of cases. In **Gunwantlal's case** (supra) as relied upon by the petitioner, the Hon'ble Supreme Court in para 5 observed :-

“.....The possession of a firearm under the Arms Act must have, firstly the element of consciousness or



*knowledge of that possession in the person charged with such offence, and secondly, where he has not the actual physical possession, he has none-the-less a power or control over that weapon so that his possession thereon continues despite physical possession being in someone else..... As we said earlier, **the first precondition for an offence under Section 25(1)(a) is the element of intention, consciousness, or knowledge with which a person possessed the firearm before it can be said to constitute an offence, and secondly, that possession need not be physical possession but can be constructive, having power and control over the gun, while the person to whom physical possession is given holds it subject to that power and control.***”

9.2. Further in its judgement dated 01.12.2014, in **Shri Gaganjot Singh vs. State in W.P. (Crl.) 1169/2014**, where a single live cartridge was found from the possession of the petitioner, the Division Bench of this Court quashed the proceedings u/S 25 Arms Act considering that the possession of such cartridge by the petitioner was not conscious as he lacked awareness about the same as the bag from which the same was recovered, belonged to his uncle.

9.3. Similar view has been taken by this court in number of cases. In somewhat in similar facts, while quashing FIR, in case of **Tarun Raghav vs. State, Govt. Of NCT of Delhi 2021 SCC OnLine Del 277**, this Court held as under :-

“7. In **Chan Hong Saik Thr SPA: Aryinder Singh vs. State and Another Crl.M.C.No.3576/2011** decided on 02.07.2011 the FIR under Section 25 Arms Act was quashed having similar facts and the Court held:-

“43. **Single live cartridge cannot be used for any threat purpose without fire arms.** Value of the



same in the market is also not attractive. It cannot be used for any third purpose. **If the intention of the petitioner was not of either of the purpose mentioned above, then he cannot be held guilty and punished** for the charge framed against him.”

9.4. Further, in Dhanwant Kaur vs State and Another Crl.M.C. No.3593/2016 decided on 04.10.2016 this Court noted :

“8. As verified and forms part of the charge-sheet, the husband of the petitioner is holder of an arms license and was also entitled to possess ammunition for the two weapons. **The case of the petitioner is that inadvertently she did not check the pouch in which she kept her artificial jewellery which also contained live cartridges and carried it with her. Thus there was no material before the Court to come to a prima facie opinion that the petitioner was in conscious possession of 5 live cartridges.** Moreover, the constructive possession of the 5 cartridges was that of the husband of the petitioner, whose possession is not illegal attracting Section 25 Arms Act as he held a valid Arms license.”

10.0. In view of the above facts and circumstances and settled position of law, I am of the considered opinion that the petitioner lacked the element of consciousness and knowledge of possession of the two live cartridges recovered from her bag. Therefore, prima facie, the petitioner cannot be said to be in conscious possession of the said two live cartridges. Thus, in the interest of justice and in furtherance of the objective of inherent powers vested in this Court under Section 482 CrPC, the FIR No. 0261/2021 u/S 25 Arms Act, P.S. I.G.I. Airport, Delhi and all consequential proceedings emanating therefrom, if any, are hereby quashed.



11.0 The petition is disposed of, accordingly.

POONAM A. BAMBA, J

JULY 20, 2022/chandan

Click here to check corrigendum, if any



