



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

% **Pronounced on: 22nd March, 2022**

+ **W.P.(CRL) 570/2022**

KOTESHWARI ORUGANTI Petitioner
Through: Ms. Nusrat Hossain and Mr. Manish
Kumar Singh, Advocates
versus

STATE OF NCT OF DELHI Respondent
Through: Mr.Avi Singh, ASC with Mr. Karan
Dhalla and Mr. Mizba, Advocates
for State with SI Ramesh Chand, PS
I.G.I Airport

CORAM:
HON'BLE MS. JUSTICE ASHA MENON

ORDER

1. This petition has been filed under Article 226 of the Constitution of India seeking quashing of FIR No.347/2021 under Section 25 of the Arms Act, 1959 registered at Police Station IGI Airport, Delhi and all the proceedings emanating therefrom.

2. Ms. Nusrat Hossain, learned counsel for petitioner, submits that the petitioner is a resident of USA and had landed in Delhi on 22nd December, 2021 on her way to her ancestral home in Andhra Pradesh, India, when during baggage screening, the suspicion of the security staff was raised on account of an image from her baggage and on physical check thereof, one live cartridge was recovered. Learned counsel submitted that the live ammunition was gifted by the petitioner's cousin as a 'souvenir' and was



inadvertently kept in the pocket of the petitioner's cloth by her son and that one live cartridge cannot be used for any threat purpose without there being any fire arm.

3. Further, though the prosecution alleges that the petitioner had no valid documents nor a licenced weapon, justifying the carrying of such a live ammunition, learned counsel for petitioner has relied on decisions of Coordinate Benches of this Court in ***Davinder Singh Dhindsa v. State (NCT of Delhi)***, 2019 SCC OnLine Del 7895; W.P.(Crl.) 754/2020 titled ***Adhiraj Singh Yadav v. State*** [Order dated 31st December, 2020] and ***Jasbir Chahal v. State***, 2018 SCC OnLine Del 8839, to submit that in cases like the present one where there was no "conscious possession", the courts have been quashing the FIRs and therefore, prays that the FIR in question and all proceedings arising therefrom be quashed.

4. I have heard the submissions of learned counsel for petitioner as also the learned Additional Standing Counsel for the State and have perused the cited judgments. The courts, where 1 or 2 live cartridges have been found in the possession of the accused, have taken a view that *mens rea* or *mala fide* intention must be present supporting a "*conscious possession plea*" of the prosecution and in the absence of any such evidence, even *prima facie*, there would be no reason to deny the relief to the petitioner.

5. In a similar case, namely, ***Chan Hong Saik Thr. Spa: Arvinder Singh v. State***, 2012 SCC OnLine Del 3320, where only a single live cartridge was found from the possession of the alleged offender, the court took the view that mere recovery with no other suspicious circumstances,



would not suffice to bring home any charge against the alleged offender and that as a single cartridge, without any fire arm, it would be a minor ammunition, which is protected under clause (d) of Section 45 of the Arms Act, 1959. The pertinent observations of the Supreme Court in *Chan Hong Saik (supra)* are as under:-

“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.”

6. In the totality of the circumstances, therefore, since no *mala fides* or mal-intention is evident from the facts and the record, the petition is allowed and the FIR No.347/2021 under Section 25 of the Arms Act, 1959 registered at Police Station IGI Airport, Delhi and all the proceedings emanating therefrom are quashed.

7. The petition stands disposed of.

8. The order be uploaded on the website forthwith.

(ASHA MENON)
JUDGE

MARCH 22, 2022

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