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

+ **W.P.(CRL) 571/2024**

KHALID NADIM KHAN

..... Petitioner

Through: Mr.Alim Mizaj, Mr.Mahtab Ali,
Mr.Danish Chaudhry, Advs.

versus

THE STATE (N.C.T. OF DELHI)

..... Respondent

Through: Mr.Yasir Rauf Ansari, ASC
(Crl.) with SI Ashok.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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04.04.2024

1. This petition has been filed under Section 482 of the Code of Criminal Procedure, 1973 (in short, 'Cr.P.C.') seeking quashing of FIR No.0309/2023 registered at Police Station: IGI Airport, New Delhi under Section 30 of the Arms Act, 1959 (in short, 'Arms Act') along with all other proceedings emanating therefrom.

2. It is the case of the prosecution that on 10.05.2023, at about 18.51 hours, the petitioner, who was to take a flight from Delhi to Tokyo along with his son and wife, was found to be in possession of eight live 22 bore cartridges which were noticed during screening of the check-in baggage.

3. The petitioner produced a valid Arms Licence bearing No.055100060.22 Bore Revolver, however, the same was valid for the State of Uttar Pradesh only. The said licence has been verified from the concerned authorities. As the said licence was not valid for the NCT of Delhi, the above FIR was registered and a charge sheet has



also been filed against the petitioner under Section 30 of the Arms Act.

4. The learned counsel for the petitioner submits that the petitioner has a valid Arms Licence, though valid in the State of Uttar Pradesh only. He submits that, inadvertently, the petitioner did not check the bag and failed to notice the presence of the eight cartridges in the same. He further submits that the petitioner was not in conscious possession of the live cartridges.

5. Placing reliance on the judgements of this Court in ***Ram Prakash Mishra v. The State (NCT of Delhi)*** passed in W.P.(Crl.) 674/2020, dated 11.03.2020; and in ***Jagat Singh v. The State (NCT of Delhi)*** passed in W.P.(Crl.) 309/2020 dated 03.02.2020, he submits that the FIR and the consequential proceedings be quashed.

6. On the other hand, the learned APP, on instruction from the IO, submits that the said Arms Licence held by the petitioner was not valid in the NCT of Delhi, therefore, the petitioner has been rightly charged.

7. I have considered the submissions made by the learned counsels for the parties.

8. This Court has held that, when the possessor is in unconscious possession of the arms/ammunitions, the same would not constitute an offence under Section 25 of the Arms Act (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).

9. In ***Ram Prakash Mishra*** (Supra) and in ***Jagat Singh*** (Supra), respectively, also, the FIR(s) were quashed owing to the fact that the petitioners therein were not in conscious possession of the cartridges that had been found with them.

10. It is evident from the record that the petitioner was negligent in not noticing the presence of eight live cartridges in his bag, however, for the same, criminal intent cannot be attributed to the petitioner. In the peculiar facts of this case, therefore, it is deemed appropriate and in the interest of justice to quash the abovementioned FIR and the proceedings emanating therefrom.

11. Accordingly, the petition is allowed. FIR No.0309/2023 registered at Police Station: IGI Airport, New Delhi under Section 30 of the Arms Act, and all consequential proceedings emanating therefrom against the petitioner are quashed, subject to the petitioner depositing costs of Rs.1,00,000/- with the “*Prayas Juvenile Aid Centre*”, Yes Bank Ltd, Ground Floor, Plot No. M-31A, M-Block Market, Greater Kailash-II, New Delhi-110048, Savings Account No.013694600000136, IFS Code- YESB0000386, within a period of four weeks from today.

12. The petitioner shall file, with the Registry of this Court, proof of deposit of the above costs, and also supply a copy thereof to the concerned IO within the said period.

NAVIN CHAWLA, J

APRIL 4, 2024/Arya/ss

Click here to check corrigendum, if any