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

\+ CRL.M.C. 1965/2024

MUKESH KUMAR PURI ..... Petitioner

Through: Mr.Varun Malik, Dr.Ajay P. Tushir, Mr.Sushil Kr. Meena, Advs.

versus

THE STATE (NCT OF DELHI) ..... Respondent

Through: Mr. Shoaib Haider, APP with SI Muksh Kumar.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

O R D E R

% 11.03.2024

CRL.M.A. 7557/2024 (Exemption)

1. Allowed, subject to all just exceptions.

CRL.M.C. 1965/2024

2. 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.238/2023 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.

3. It is the case of the prosecution that on 17.04.2023 at about 2213 hours, the petitioner, who was to take a flight to Kuala Lampur, Malaysia, had placed his bag for screening. In the screening process, images of two live ammunitions were noticed. In the course of checking, two live ammunitions mark .32 were recovered from his handbag. As the petitioner was not having a valid licence for carrying the ammunition in his bag, the abovementioned FIR was registered. In the course of the investigation, however, the petitioner produced a

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copy of the Arms Licence, which was valid for the State of Punjab only, and was issued as well as verified from the Office of the Commissioner of Police, Jalandhar, Punjab. As the said licence was not valid for Delhi, a charge sheet has also been filed against the petitioner.

4. The learned counsel for the petitioner submits that the petitioner has a valid Arms Licence, though valid in the State of Punjab. He inadvertently did not check the bag and failed to notice the presence of two live cartridges in the same. He further submits that the petitioner was not in conscious possession of the live cartridges. Placing reliance on the judgements of this Court in ***Ram Prakash Mishra v. The State (NCT of Delhi)*** passed in WP(Crl) 674/2020, dated 11.03.2020; and in ***Jagat Singh v. The State (NCT of Delhi)*** passed in WP(Crl.) 309/2020 dated 03.02.2020, he submits that the FIR and the consequential proceedings be quashed.

5. On the other hand, the learned APP, on instruction, 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.

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

7. 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, 1959 (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

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25.09.2019 and ***Paramdeep Singh Sran v. The State (NCT of Delhi)*** W.P. (Crl) 152/2019 decided on 29.08.2019).

8. 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.

9. It is evident from the record that the petitioner was negligent in not noticing the presence of two 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.

10. Accordingly, the petition is allowed. FIR No.238/2023 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.50,000/- with the Delhi Fire Service Benevolent Fund, Axis Bank Ltd, The Statesman House, 148, Barakhamba Road, New Delhi, Saving Account No.924010014344677, IFSC Code, UTI80000007, within a period of four weeks from today.

11. 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

MARCH 11, 2024/Arya/RP

Click here to check corrigendum, if any

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