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

+ **CRL.M.C. 3921/2024,CRL.M.A. 14976/2024**

ANAY LADDHA

.....Petitioner

Through: **Mr.Samarth K.Luthra, Adv.**

versus

STATE OF N.C.T. OF DELHI

.....Respondent

Through: **Mr. Raghuvinder Varma, APP for the
State**

SI Mukesh Kumar, PS IGI Airport

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

09.07.2024

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1. Present petition has been filed for quashing of case FIR no.339 dated 11.05.2024 registered under Section 25 of the Arms Act, 1959 at PS IGI Airport and all the other proceedings emanating therefrom.
2. Learned counsel for the petitioner submits that the petitioner is a 22 years old citizen of the United States of America and holds US Passport Number with an Overseas Citizen of India Card. It is submitted that on 22.03.2024, the Petitioner visited a shooting range in Ashville, Tennessee, United States of America after which he retained a bullet to keep as a souvenir.
3. It has further been submitted that the petitioner was travelling from the USA to Bali, Indonesia transiting through Indira Gandhi International Airport, New Delhi. However, inadvertently, the aforesaid bullet was left in the petitioner's carry-on bag which was screened at IGI Airport,



New Delhi on 11.05.2024 and upon finding the bullet in his bag, the concerned officer seized the recovered ammunition and lodged the impugned FIR.

4. However, it is submitted that the petitioner had no knowledge of the bullet inadvertently having been left in his carry-on luggage. It is submitted that there was no 'conscious possession' of the bullet on behalf of the petitioner which is an essential ingredient to establish the commission of an offense under Section 25 of the Arms Act, 1959. In support of his contentions, the learned counsel has placed reliance upon ***Gunwant Lal v. The State of Madhya Pradesh***, (1972) 2 SCC 194, ***Namanpreet S. Dhillon v. State***, 2022 SCC OnLine Del 2255, W.P.(CRL.) 2393/2021 titled as ***Dildar Singh v. State of NCT of Delhi*** and CRL.MC. 4956/2023 titled '***Jobanjit Singh Johal v. State of NCT of Delhi and Anr.***'
5. It is a settled principle that the consciousness or knowledge of possession is a sine qua non to prosecute an accused under the Arms Act, 1959. The Apex court established the same in ***Gunwant Lal v. The State of Madhya Pradesh***, (1972) 2 SCC 194 wherein it was inter alia held as under:

“5....The possession of a firearm under the Arms Act in our view 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 nonetheless a power or control over that weapon so that his possession thereon continues despite physical possession being in someone else. If this were not so, then an owner of a house who leaves an unlicensed gun in that house but is not present when it was recovered by the police can plead that he was not in possession of it even though he had himself consciously kept it there when he went out. Similarly, if



he goes out of the house during the day and in the meantime someone conceals a pistol in his house and during his absence, the police arrives and discovers the pistol, he cannot be charged with the offence unless it can be shown that he had knowledge of the weapon being placed in his house. And yet again if a gun or firearm is given to his servant in the house to clean it, though the physical possession is with him nonetheless possession of it will be that of the owner. The concept of possession is not easy to comprehend as writers of Jurisprudence have had occasions to point out. In some cases under Section 19(1)(f) of the Arms Act, 1878 it has been held that the word “possession” means exclusive possession and the word “control” means effective control but this does not solve the problem. 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....”

6. Moreover, in ***Sanjay Dutt v. State*** (1994) 5 SCC 410, the Supreme Court also held that the true meaning behind the very first ingredient of ‘possession’ of any such arms, etc. is that the same is inclusive of a mental element, i.e. that mere possession is not enough, there must be awareness of such possession.
7. The petitioner was in possession of the ammunition; however, there is nothing on the record even to suggest that he lacked any consciousness or awareness as to the nature of his possession. The same was in his handbag and seems to have had been carried inadvertently. The petitioner is a young boy and has explained that the bullet is a keepsake from a shooting range that he had visited with his friends in the United States of America where the right to bear arms is a Fundamental Right



in the United States of America, protected by the Second Amendment to the United States Constitution.

8. In the circumstances as mentioned above, the court is of the considered opinion that continuing the present proceedings will only be futile and not in the interest of justice, thus, taking the facts and circumstances in totality, the present petition is allowed as the court is of the view that the same would meet the ends of justice.
9. Accordingly, FIR 339/2024 dated 11.05.2024 registered at PS IGI Airport under Section 25 of Arms Act, 1959 and all proceedings emanating therefrom are quashed.
10. The present petition along with the pending application stands disposed of.

DINESH KUMAR SHARMA, J

JULY 9, 2024/rb..