

\$~63

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

Date of decision:16.10.2019

+ CRL.M.C. 5272/2019

ANURAG WALIA

..... Petitioner

Through: Mr. Shreyash Lalit and Mr. Aamir
Choudhary, Advs.

versus

STATE (NCT OF DELHI) & ANR

..... Respondents

Through: Mr. Kamal Kr. Ghei, APP for State

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T (O R A L)

CRL. M.A. 38281/2019

1. Allowed, subject to all just exceptions.
2. Application is disposed of.

CRL.M.C. 5272/2019

3. Vide the present petition, the petitioner seeks quashing of FIR No. 77/2018 registered at Police Station – Palam Airport, Delhi for the offences punishable under Section 25 Arms Act, 1959 and all proceedings emanating therefrom.
4. The present petition is filed under Section 482 Cr.P.C. by stating that the unfortunate incident took place within the jurisdiction of P.S. I.G.I

Airport on 20.02.2018 when the petitioner was leaving from Delhi to Mumbai through flight Go Air G-8334. He was travelling with his sister on the said flight, and before going to the airport, he took his bag for the purpose of storing his personal belongings.

5. Upon arriving at the airport and after collecting the boarding pass from security, one live cartridge 7.62 MM caliber was detected in the baggage. He had no knowledge about this cartridge which was detected inside his bag, nor any information as to how the live ammunition reached his bag. Aforementioned cartridge does not belong to any gun owned by the Petitioner, and neither is there any rational reason for the Petitioner to have been in possession of the same.

6. While arguing the case for the petitioner, learned counsel for has relied upon decision of this Court delivered in ***Chan Hong Saik vs. State and Anr., 2012 (130) DRJ 504*** (decided on 02.07.2012 in CRL.M.C. 3576/2011), whereby the Court opined that *a single cartridge without firearm is a minor ammunition which is protected under clause (d) of Section 45 of the Arms Act.*

7. In addition to above, learned counsel also relied upon the other cases decided by different High Court giving the same opinion. However, the fact

remains that the judgment delivered by this Court dated 02.07.2012 was referred to the larger Bench and vide judgment dated 06.01.2016 in case of ***Dharmendra vs. State in CRL.M.C. 4493/2015***, the Court opined that single cartridge is ammunition and comes under the Arms Act, 1959.

8. The fact remains that this Court in ***Chan Hong Saik (Supra)*** quashed the FIR by holding that *a single cartridge without firearm is a minor ammunition which is protected under clause (d) of Section 45 of the Arms Act*. The larger Bench referred above did not agree with the opinion of this Court but however, opined that the possession of the ammunition was unconscious and there was no arm with the accused and there was no threat to anyone, therefore this Court has rightly quashed the FIR.

9. In the case in hand, it is not the case of the prosecution that there was fire arm recovered from the petitioner or there was any threat to anyone at the Airport.

10. Thus, in the present case also, the possession of the ammunition was unconscious and there was no threat to anyone.

11. Accordingly, for the reasons afore-recorded, the FIR No. 77/2018 registered at Police Station – Palam Airport, Delhi for the offences punishable under Section 25 Arms Act, 1959 and all proceedings emanating

therefrom are hereby quashed.

12. The petition is allowed accordingly.

13. *Dasti.*

(SURESH KUMAR KAIT)
JUDGE

OCTOBER 16, 2019

PB

सत्यमेव जयते