

(2019) 11 DEL CK 0072

In the Delhi High Court

Case No : Criminal Miscellaneous Case No. 3149 Of 2019

Baljit Singh Chahal

APPELLANT

Vs

State Nct Of Delhi

RESPONDENT

Date of Decision : 07-11-2019

Acts Referred:

Arms Act, 1959 — Section 25, 45, 45(d), 54, 59

Citation : (2019) 11 DEL CK 0072

Hon'ble Judges : Suresh Kumar Kait, J

Bench : Single Bench

Advocate : Jaspreet Singh Rai, Izhar Ahmed

Final Decision : Allowed

Judgement

Suresh Kumar Kait, J

1. Vide the present petition, the petitioner seeks quashing of FIR No. 67/2018 registered at Police Station IGI Airport, Delhi for the offences punishable under Section 25/54/59 Arms Act, 1959 and all proceedings emanating therefrom.

2. The brief facts of the case are that the petitioner was travelling from Delhi to Amsterdam by Flight No.KL-0872 having Seat No.65B on 13.02.2018 at about 0205 hrs when 01 ammunition was recovered from his hand bag subsequent to which, FIR No.67/2018 dated 13.02.2018 was registered at P.S. IGI Airport, Delhi U/S 25/54/59 Arms Act 1959.

3. Thereafter, the petitioner was put to joint interrogation by the Special Cell, Delhi Police, during which the petitioner stated that since he had to rush to Delhi from his native District Shahid Bhagat Singh Nagar, Punjab to reach IGI Airport in time for his flight, he put the hand bag without thoroughly checking the contents thereof and therefore, himself could not have known the presence of the cartridge in his luggage/hand baggage. The above said 1 live cartridge belongs to the petitioner and the petitioner also holds an Arms License bearing No.DM/SBS/DUP/SNSR/0415/30 valid in Punjab from 01.03.2012 to 01.03.2020.

Further, the factum of the aforesaid Arms Licence was duly informed to the IO during investigation, who duly verified the petitioner's license from the office of the Additional District Magistrate, District Nawanshahr, Punjab.

4. While arguing the case for the petitioner, learned counsel 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. 5. 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.

6. 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.

7. 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.

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

9. Accordingly, for the reasons afore-recorded, the FIR No. 67/2018 dated 13.02.2018 registered at Police Station IGI Airport, Delhi for the offences punishable under Section 25/54/59 Arms Act, 1959 and all proceedings emanating therefrom are hereby quashed.

10. The petition is allowed and disposed of accordingly.

11. Dasti.