

\$~2

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

Date of decision: 30.10.2019

+ CRL.M.C. 2846/2019 & CrI.M.A. 11510/2019

KAVERDEEP SINGH KHERA Petitioner

Through Mr.Varun Singh, Adv.

versus

STATE & ANR. Respondents

Through Mr. Izhar Ahmad, APP for State.
SI Avinash Pratap PS Chankya Puri.

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

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

1. Vide the present petition, the petitioner seeks quashing of FIR No. 112/2016 registered at Police Station – Chankya Puri, Delhi for the offences punishable under Section 25/54 Arms Act, 1959 and all proceedings emanating therefrom.

2. The present petition is filed under Section 482 Cr.P.C. by stating that a complaint was received at Police Station Chankya Puri, New Delhi from Mr.Mahesh Yadav, Sec. Coordinator at US Embassy, who while performing duty at US Embassy Visa Gate No.6 at around 08:30 a.m., during the

physical scanning/checking, one live cartridge of 3.7 cm long and 1.5 cm width KF.32S & W.L at the bottom of the round was detected/found in the left pocket of the petitioner's pant. On questioning, since the petitioner failed to produce any license for the said live cartridge, a complaint was registered against the petitioner.

3. Thereafter the petitioner was put to joint interrogation by the Special Cell, Delhi Police, wherein the petitioner stated that he has visited American Embassy for seeking tourist visa for US along with his fiancée. The petitioner further stated that live bullet was with him by mistake as he was wearing his uncle's pant and also stated that a valid arms licence is issued to his uncle.

4. 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.*

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. 112/2016 registered at Police Station – Chankya Puri, Delhi for the offences punishable under Section 25/54 Arms Act, 1959 and all proceedings

emanating therefrom are hereby quashed.

10. The petition is allowed and disposed of accordingly.

11. *Dasti*.

12. Pending application also stands disposed of.

(SURESH KUMAR KAIT)
JUDGE

OCTOBER 30, 2019

ab

सत्यमेव जयते