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

% *Date of decision: April 28, 2025*

+ **CRL.M.C. 1215/2021**

VARSHAPetitioner

Through:

versus

STATE OF NCT DELHIRespondent

Through: Mr. Yudhvir Singh Chauhan, Ld.
APP for the State.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. The present Petition has been filed under Section 482 of the *Code of Criminal Procedure, 1973* ('Cr.P.C.') seeking quashing of FIR No. 10/2018 u/s 25/54/59 of Arms Act, 1959 PS Janak Puri Metro, New Delhi.
2. It is submitted in the Petition that on 26.09.2018, while returning from a Bhagwat Katha Programme, when the Petitioner put her bag in the BIS X-ray machine at Dwarka Mor Metro Station, the CRPF official recovered two live cartridges. Police was called and the Petitioner was apprehended. FIR No. 10/2018 was registered against her.
3. The Petitioner has sought quashing of FIR No. 10/2018 on the ground that she was not aware of its existence nor was she in *conscious possession* of the two live cartridges recovered from her bag. Charge sheet



was filed in the Court on 06.10.2020 but nowhere has it been mentioned that the Petitioner was in conscious possession of the two live cartridges. Ld. Trial Court has taken cognizance and framed charges in a mechanical manner without considering the submission of the Petitioner that she was not in conscious possession of the Cartridges.

4. Petitioner states that she is a peace loving, respectable person and a student of M.A. Economics having no criminal antecedents. The quashing of FIR and all the proceedings emanating therefrom, is thus sought.

5. The **Ld. Public Prosecutor** has vehemently opposed the Petition on the ground that the Petitioner was caught with *two live cartridges* which is an offence under the Arms Act.

6. Submissions Heard and Record Perused.

7. Admittedly, two live cartridges were recovered from the bag of the Petitioner during her baggage scanning at Dwarka Mor Metro Station.

8. The pre-condition for an offence under the Arms Act, 1959 is the element of intention, consciousness or knowledge with which a person possessed the Firearm before it can be said to constitute an offence, as held by the Constitution Bench of the Apex Court in Gunwant Lal vs. The State of Madhya Pradesh, (1972) 2 SCC 194.

9. In Ritesh Taneja vs. State and Anr., 2022 SCC OnLine Del 971, it has been explained by the Co-ordinate Bench of this Court that it is the *conscious possession* of any firearm/ammunition which entails strict liability on the offender.

10. In Sanjay Dutt v. State through CBI Bombay, (1994) 5 SCC 410, the Constitution Bench of the Apex Court had reiterated as under: -



"The meaning of the first ingredient of "possession" of any such arms etc. is not disputed. Even though the word 'possession' is not preceded by any adjective like 'knowingly', yet it is common ground that in the context the word 'possession' must mean possession with the requisite mental element, that is, conscious possession and not mere custody without the awareness of the nature of such possession. There is a mental element in the concept of possession. Accordingly, the ingredient of 'possession' in Section 5 of the TADA Act means conscious possession. This is how the ingredient of possession in similar context of a statutory offence importing strict liability on account of mere possession of an unauthorized substance has been understood. (See Warner v. Metropolitan Police Commissioner, (1969) 2 A.C. 256 and Sambasivam v. Public Prosecutor, Federation of Malaya, (1950) AC 458."

11. In Gaganjot Singh v. State, MANU/DE/3227/2014, the Co-ordinate Bench of this Court in similar facts, where a solitary live cartridge was recovered by the police from the petitioner's bag which belonged to his uncle about which he expressed his lack of knowledge, it was held that the circumstances did not establish *conscious possession*. Relying on the decision in Gunwantlal (Supra), the FIR was quashed, and the petitioner was discharged.

12. Similar, observations have made consistently by the Co-ordinate Bench of this Court in Narinderjit Kaur Singh vs. State (NCT of Delhi) decided vide W.P.(CRL) 1669/2017 and Nimesh Kumar vs. State of NCT of Delhi, decided vide W.P.(CRL) 3540/2017.



13. The circumstances in which the 2 live cartridges were recovered from the petitioner has been explained by her who stated that she was not even aware of the cartridges in her bag and she was coming from an event where all the bags were kept in one single room and the cartridges might have been put in her bag by someone at that time.

14. The circumstances as explained by the Petitioner, clearly establish that there was no criminal intent on his part. It can be inferred that presence of the cartridges in the bag was without the knowledge of the Petitioner and she did not have the requisite *men rea*. It is thus, held that the possession of two cartridges was not *conscious possession* and does not disclose commission of any offence punishable under Section 25 Arms Act, 1959.

15. Accordingly, ***FIR No. 10 of 2018 under Section 25 of the Act, 1959*** PS Janak Puri Metro and all consequential proceedings emanating therefrom, are quashed.

16. The Petition along with Pending Application (s), if any, is disposed of.

(NEENA BANSAL KRISHNA)
JUDGE

APRIL 28, 2025/RS