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

+ **W.P.(CRL) 1489/2020**

CARLOS JUNCO ANOS Petitioner

Through : Mr.Rohit Nagpal, Advocate

versus

STATE NCT OF DELHI Respondent

Through : Mr.Ranbir Singh Kundu, ASC for the
State with SI Mahesh Chand, PS
Domestic Airport

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% **21.09.2020**

CrI.M.A.No.12956/2020

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. This writ petition is filed seeking quashing of the FIR No.40/2018 registered at police station Domestic Airport, Delhi under Section 25 Arms Act and the proceedings emanating therefrom.
4. The reply by the State is filed and is take on record.
5. The case of the petitioner is he was travelling to Hyderabad from Delhi by flight No.6E-739 of Indigo Airlines on 26.03.2018 whereupon one live cartridge was discovered in his hand baggage subsequent to which the present FIR NO.40/2018 dated 23.03.2018 was registered at PS Domestic Airport, Delhi under Section 25 of the Arms Act.
6. It is submitted the cartridge was found inside the hand baggage of the petitioner. He holds a valid Arms License bearing No.51080415-Z valid till 15.02.2018 in Spain. The petitioner submits he had no knowledge of the

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SHARMA

Signing Date: 21.09.2020 15:35

presence of any cartridge, which inadvertently was there in his baggage. The petitioner relies upon various judgments wherein it has been categorically held that *mere possession of live cartridge without any consciousness would not constitute an offence* as alleged and the petitioner thus prays for the quashing of FIR. Reference is made to *Dhanwant Kaur V. State* 2016 SCC Online Del 5492 wherein this court held as under :

8. As verified and forms part of the charge-sheet, the husband of the petitioner is holder of an arms license and was also entitled to possess ammunition for the two weapons. The case of the petitioner is that inadvertently she did not check the pouch in which she kept her artificial jewellery which also contained live cartridges and carried it with her. Thus there was no material before the Court to come to a prima facie opinion that the petitioner was in conscious possession of 5 live cartridges. Moreover, the constructive possession of the 5 cartridges was that of the husband of the petitioner, whose possession is not illegal attracting Section 25 Arms Act as he held a valid Arms license.

7. I have also perused the reply filed by the prosecution wherein they have noted the facts of the case but had confirmed the fact the Arm's license of the petitioner was though valid till 15.02.2018 and had expired by 26.03.2018, i.e., on the date of lodging of the FIR. However the applicant had already applied for the extension of such license as he was not aware if his licence had expired on 15.02.2018, prior to boarding of his flight.

8. Admittedly only a cartridge was found in his hand baggage without any firearm. The submission of the petitioner thus are *plausible* that he being an holder of Arm's license may have kept this cartridge inadvertently in his baggage, hence, relying upon the law laid down above, there is no use to continue with this FIR and the proceedings emanating therefrom and hence, the FIR stands quashed. Pending applications also stands disposed of.

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9. Copy of this order be communicated to the learned Trial Court for information and compliance.

YOGESH KHANNA, J.

SEPTEMBER 21, 2020

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