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2026:DHC:9329

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

Reserved on: 25.09.2026
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\# **CNR No. DLHC010014042024**

\+ CRL.M.C. 451/2024 & CRL.M.A. 1758/2024 STAY

LINGAMALLY VEERA GOPAL RAO. .....Petitioner

Through: Mr. Shrey Sharawat, Mr. Ayush Tanwar, Mr. Ketan Saxena and Ms. Pradhee Dhingra, Advs.

versus

STATE OF NCT OF DELHI .....Respondent

Through: Mr. Raghuinder Verma, APP with SI Rajesh Kumar, PS-IGI Airport.

CORAM:
HON'BLE MR. JUSTICE RAVINDER DUDEJA

J U D G M E N T

RAVINDER DUDEJA, J.

1. The present petition has been filed seeking, quashing of the charge sheet filed in Case FIR No. 0226/2022, dated 10th June, 2022, registered at Police Station IGI Airport, New Delhi, under Section 25 of the Arms Act, 1959 and the proceedings emanating therefrom, bearing Criminal Case No. 8406/2022, pending before the learned Additional Chief Metropolitan Magistrate-01, Patiala House Courts, New Delhi.

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Brief Facts:

2. The brief facts of the case are that on 9th June 2022, complainant namely Sh. Manoj Kumar Yadav, Sr. Associate (ILBIS), came at Police Station and handed over a complaint along with pax namely (i) Mr. Damera Ram Sudhakar Rao and (ii) Mr. Lingamally Veera Gopal Rao.

3. As per his complaint, on 09th June, 2022, at 17:01 hours, the image of bag under Tag No. 6E-0312708507, appeared at Level-2 and the same was referred for physical check on suspicion of an ammunition. During physical search of the bag of Mr. Damera Ram Sudhakar Rao, who was scheduled to travel on Indigo flight 6E-2104 from Delhi to Hyderabad, single ammunition was recovered in the presence of passenger Damera Ram Sudhakar Rao. When the said passenger was asked to produce the valid documents for the recovered single ammunition, he stated that the baggage in question does not belong to him, but was belonging to his co-passenger Lingamally Veera Gopal Rao (petitioner), as they were two pax, travelling together and gave their baggage for group check into Indigo Airlines.

4. The petitioner was not in possession of valid documents for carriage of the above-mentioned ammunition. Accordingly, FIR was registered against him under Section 25 of the Arms Act, 1959 at PS IGI Airport, Delhi.

5. During investigation, the cartridge was sent to Ballistic Division, FSL, Rohini, Delhi for expert opinion and the result of the FSL, Rohini confirmed that the recovered cartridge is an ammunition, as defined in Arms Act, 1959.

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6. Permission under Section 39 Arms Act was obtained from DCP/IGI Airport, and on completion of investigation, charge sheet was filed against the petitioner under Section 25 of the Arms Act, 1959.

Submissions on behalf of the Petitioner:

7. The learned counsel for the petitioner submitted that petitioner came to Delhi from Hyderabad, but the cartridge was never detected at the time of boarding of the flight from Hyderabad to Delhi. However, the same was detected on his way back. It is submitted that petitioner did not intend to carry the live cartridge in any manner whatsoever. He was neither in the conscious possession of the live cartridge nor was the same within his knowledge at the time of boarding the flight. He was totally unaware that there was live bullet in his luggage.

8. It was therefore prayed that since the petitioner was not having conscious possession of the live cartridge and was totally unaware about the presence of the same in his luggage, the FIR needs to be quashed. Reliance in this regard was placed on:-

i) Anurag Walia vs. State (NCT of Delhi & Anr.) 2019 SCC OnLine Del. 10600;

ii) Michale Joseph Hayden vs. State (GNCT) of Delhi, 2018 SCC OnLine Del. 8490;

iii) Gunwantlal vs. State of Madhya Pradesh (1972) 2 SCC 194;

iv) Gaurav Sachdeva vs. NCT of Delhi & Anr. W.P. (Crl.) 552/2021, decided on 28.05.2021;

v) Adhiraj Singh Yadav vs. State, 2020 SCC OnLine Del. 2110;

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vi) Jatinder Singh vs. State NCT of Delhi & Anr. W.P. (Crl.) 1166/2025, decided on 23.04.2025;

vii) Koteshwar Orungati vs. State of NCT of Delhi, 2022 SCC OnLine Del. 798.

Submissions on behalf of the State:

9. *Per contra*, the learned APP submitted that during investigation, the petitioner was interrogated at length, and during such interrogation, he disclosed that he did not possess any arms license and the said cartridge was found by him in the farm of his village, and out of curiosity, he put the same inside his bag and later did not remove it.

10. The learned APP submitted that the investigation conducted reveal sufficient evidence against the petitioner and therefore petition is liable to be dismissed.

Analysis & Conclusion:

11. I have heard both the sides and have perused the relevant documents on record.

12. As per the definition of ammunition under Section 2(b) of the Arms Act and the decision of the Division Bench of this Court in the case of ***Gaganjot Singh Vs. State*** in *W.P. (Crl.) 1169/2014*, live cartridge is an ammunition.

13. The question that falls for consideration is as to whether the petitioner was in "conscious possession" of the ammunition, allegedly recovered from him or not.

14. A perusal of Section 25 of the Arms Act, 1959 shows that the term 'possession' refers to the possession backed by the requisite

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mental element, i.e. conscious possession. Therefore, mere custody, without being aware of such possession does not constitute an offence under the Arms Act. In the case of ***Sanjay Dutt v. State through CBI Bombay (II), (1994) 5 SCC 402***, the Hon'ble Supreme Court has observed as under:-

> *"20. 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."*

15. It would be appropriate to make a reference to the judgment of the Coordinate Bench of this Court in ***W.P. (Crl.) 633/2023, Mohd. Tarique Rehman vs. NCT of Delhi***, wherein, under similar circumstances, this Court had made the following pertinent observations:-

> *"6. Applying the same principles to the present case, it is evident that the Petitioner had no knowledge of the presence of the ammunition in his baggage. The doctrine of conscious possession requires not only physical possession but also awareness and intent, neither of which are established here. The material on record does not suggest any mens rea or culpable intent on the part of the*

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> *Petitioner, nor does it indicate that the ammunition was carried for any unlawful purpose. The Petitioner's explanation, that the cartridge was mistakenly left in his bag by others who borrowed it, is plausible. Moreover, no firearm was recovered from the Petitioner, and there is no allegation that he attempted to use the ammunition in any manner that posed a threat to public safety. Given that criminal liability under the Arms Act is stringent and must be construed strictly, the absence of any incriminating circumstances further reinforces the conclusion that the Petitioner does not fall within the mischief sought to be prevented by the statute. Consequently, no offence under Section 25 of the Arms Act is made out against the Petitioner.*
>
> *7. Additionally, the Petitioner has no criminal antecedents, and the registration of an FIR in such circumstances would serve no legitimate purpose other than subjecting him to undue harassment and prolonged litigation. The Supreme Court has repeatedly held that criminal proceedings should not be permitted to continue when they amount to an abuse of the process of law. In the absence of any legal or factual basis to sustain the prosecution, allowing the proceedings to continue would be a manifest miscarriage of justice."*

16. Similar reference be also made to the order dated 14th January, 2026, passed by Coordinate Bench of this Court in ***Seema vs. State of NCT of Delhi & Anr., (W.P. (Crl.) 85/2026)***, wherein, the concerned accused was found in possession of two live cartridges and the FIR was quashed. The relevant observations made in the said order are as under:-

> *"6. While praying for quashing of FIR and the criminal proceedings emanating there from, the learned counsel for the petitioner argues*

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that petitioner had no knowledge regarding the presence of the aforesaid ammunitions/cartridges in her bag and she was only informed by the security officials of the IGI Airport about the same. It is further submitted that petitioner had no intention to carry live ammunitions/ cartridges and the recovered live cartridge cannot be used for any threat purpose without a fire arm and it does not attract any offence in the absence of any knowledge of conscious possession. It is also submitted that the petitioner's husband had borrowed a bag from a family friend, who is a valid arms license holder, due to the petitioner's own luggage being overweight, and the cartridges were inadvertently left in the bag by the licensee, who had admitted to the same in his statement given to the I.O. and has also given his affidavit to the said effect, which is annexed with the present petition.

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9. The Constitutional Bench of the Hon'ble Supreme Court in the case of Gunwantlal v. The State of Madhya Pradesh: (1972) 2 SCC 194 has explained the meaning of possession in the context of Section 25 of the Arms Act, 1959 and held as under:-
"The possession of a firearm under the Arms Act in our view must have, firstly the element of consciousness or knowledge of that possession in the person charged with such offence and secondly where he has not the actual physical possession, he has none-the-less a power or control over that weapon so that his possession thereon continues despite physical possession being in someone else. If this were not so, then an owner of a house who leaves an unlicensed gun in that house but is not present when it was recovered by the police can plead that he was not in possession of it even though he had himself consciously kept it there when he went out. Similarly, if he goes out of the house during the day and in the

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> *meantime someone conceals a pistol in his house and during his absence, the police arrives and discovers the pistol he cannot be charged with the offence unless it can be shown that he had knowledge of the weapon being placed in his house. And yet again, if a gun or firearm is given to his servant in the house to clean it, though the physical possession is with him nonetheless possession of, it will be that of the owner. The concept of possession is not easy to comprehend as writers of (sic) have had occasions to point out. In some cases under Section 19(1)(f) of the Arms Act, 1878 it has been held that the word "possession" means exclusive possession and the word "control" means effective control but this does, not solve the problem. As we said earlier, the first precondition for an offence under Section 25(1)(a) is the element of intention, consciousness or knowledge with which a person possessed the firearm before it can be said to constitute an offence and secondly that possession need not be physical possession but can be constructive, having power and control over the gun, while the person to whom physical possession is given holds it subject to that power and control.*

"10. The above proposition of law was reiterated by the Hon'ble Supreme Court in Sanjay Dutt v. State Through CBI Bombay: (II) Crimes 1994 (3) 344 (SC) and held as under:

> *"20. 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*

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> *ingredient of possession in similar context of a statutory offence importing strict liability on account of mere possession of an unauthorised substance has been understood."*
>
> *11. In the present case, there is nothing on record to suggest that petitioner was in conscious possession of the two live cartridges and she was aware of the said fact. Mere recovery of cartridge itself is not sufficient to prove the offence in the absence of any intention. It is apparent from the record that the petitioner was unaware of the fact that the two cartridges were kept in her bag, since the said bag did not belong to her, but was of the family friend. It is also a matter of record that no weapon was recovered from the petitioner to connect her with the intention to use the recovered cartridge for committing any offence.*
>
> *12. In view of the above discussion, this Court is of the opinion that no offence is made out against the petitioner under Section 25 of the Arms Act. This Court is further of the view that allowing continuation of criminal proceedings against the petitioner will be an abuse of process of law."*

17. The aforesaid decisions clearly laid down that where the accused is not in conscious possession of the ammunition/live cartridge, he or she cannot be proceeded for the offence under Section 25 of the Arms Act.

18. In the present case, only one single live cartridge was recovered from the baggage of the petitioner without any corresponding arms. Further, no suspicious circumstances have been pointed out in the FIR, which would indicate that the possession of the cartridge was conscious.

19. Hence, in the given circumstances and regard being had to the aforesaid legal position, it can be said that petitioner was not in

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conscious possession of the ammunition. Accordingly, he is not liable to prosecution for the offence under Section 25 of the Arms Act, 1959.

Conclusion:

20. Consequently, to secure the ends of justice, the charge sheet filed in case FIR No. 0226/2022, dated 10th June, 2022, registered with PS IGI Airport, under Section 25 of the Arms Act, 1959 and the proceedings emanating therefrom bearing CR Case No. 8406/2022, titled "*State Vs. Lingamally Veera Gopal Rao*", pending before the court of learned Additional Chief Metropolitan Magistrate-01, Patiala House Courts, New Delhi, is hereby quashed.

21. Petition stands disposed of in the above terms.

22. Pending application (s), if any, stand disposed of.

RAVINDER DUDEJA, J.

OCTOBER 16, 2026/SK