

**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE**

BEFORE

HON'BLE SHRI JUSTICE SATYENDRA KUMAR SINGH

ON THE 13th OF DECEMBER, 2022

MISC. CRIMINAL CASE No. 57707 of 2022

BETWEEN:-

**TAHER S/O JOHER TAILOR, AGED ABOUT 24 YEARS,
OCCUPATION: STUDY R/O 147 KHATIWALA TANK G-1 MUSTAFA
SAIFEE INDORE (MADHYA PRADESH)**

.....PETITIONER

(BY SHRI PALASH CHOUDHARY, ADVOCATE)

AND

**THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER
THROUGH POLICE STATION AERODRUM, INDORE (MADHYA
PRADESH)**

.....RESPONDENTS

(BY MS. NISHA JAISWAL, PANEL LAWYER)

(BY SHRI MANISH SHARMA, COUNSEL FOR OBJECTOR)

*This application coming on for admission this day, the court
passed the following:*

ORDER

This petition under Section 482 of Cr.P.C. has been preferred to
quash the FIR bearing Crime No.761/2022 registered at P.S.,

Aerodrome, Indore against the applicant for the offence punishable under Section 25 of Arms Act.

2. Brief facts giving rise to this petition are that on 13.10.2022 at about 19.10 hours when ASI/EXE CISF Vikas Kumar was screening/checking the luggage of the passengers at Devi Ahilya Holkar Airport, Indore, he found two empty cartridges (EFCS) marked as 0.223 TSC REM and one without mark from the luggage of the applicant. On being asked applicant did not produce any valid license and stated that he had gone to a shooting range in Kuwait, where he picked the same during shooting practice. Vikas Kumar informed to the Inspector, CISF, Ashiwini Kumar, who vide written letter dated 13.10.2022 sent the applicant to P.S., Aerodrome, Indore, where on the basis of aforesaid written complaint FIR bearing Crime No.761/2022 was registered against the applicant for the offence punishable under Section 25 of Arms Act.

3. Learned counsel for the applicant referring to the definition of “Ammunition” under sub-Clause 1 of Section 2(i) of the Arms Act, 1959 and also the definition of “Cartridge” under Clause 12 of Rule 2 of the Arms Rules, 2016, submits that empty cartridge never comes under the purview of “Cartridge” nor “Ammunition”. He further referring to the judgment passed by the High Court of Delhi in the case of *Chan Hong Saik Through Spa: Arvinder Singh Vs. State and another, 2012 (130) DRJ 504* and also other judgment passed on the basis of findings given in the aforesaid citation submits that it has

specifically been held in the aforesaid judgment that even live cartridge without any arm has been held as minor ammunition, which is exempted under Section 45(d) of Arms Act, 1959. He further submits that in view of the aforesaid empty cartridges at the most can only be categorized under minor part of the ammunition and the same is exempted under Clause (d) of Section 45 of Arms Act, 1959, therefore, no offence is made out against the applicant and he cannot be for possessing empty cartridge. Therefore, the petition be allowed and the FIR be quashed.

4. Learned counsel for the respondent/State has opposed the prayer and submits that applicant did not produce any valid license for possessing the seized cartridges, which is an ammunition defined under the Arms act, 19959. The petition is devoid of merit and the same be dismissed.

5. Heard learned counsel for both the parties and perused the record.

6. Before going into merits of the case, it is emphasized to refer the definition of “Ammunition” prescribed under sub-Clause (iii) of Section 2(i)(a) of Arms Act, which is as follows:-

“(iii) other articles containing, or designed or adapted to contain, explosive, fulminating or fissionable material or noxious liquid, gas or other such thing, whether capable of use with fire-arms or not.”

7. In this regard definition of cartridges prescribed under sub-Clause 12 of Rule 2 of the Arms Rules, 2016 is also relevant, which is as follows:-

“(12) “Cartridge” means a complete object consisting of a cartridge case, primer, propellant, bullet or any single or multiple projectile.”

8. In the instant case, as per prosecution case itself it is alleged against the applicant that he was found having two empty cartridges i.e. fired cartridges. As empty cartridges neither contains any explosive, fulminating or fissionable material or noxious liquid, gas or other such thing, therefore, submission made by the learned counsel for the applicant has force that empty cartridges will not fall under the definition of “Ammunition”.

9. In the judgment passed by the High Court of Delhi in the case of ***Chan Hong Saik (supra)***, which was followed in several other cases, it has been found that live cartridge is minor ammunition, therefore, empty cartridges can at the most be categorized as minor part of “Ammunition”, which is specifically exempted under sub-Clause (d) of Section 45 of Arms Act, 1959 and the possession of which is not punishable under the said Act.

10. In view of the aforesaid discussion, allowing the prosecution to continue in the case would amount to abuse of the process of Court, therefore, it is necessary to quash the proceedings in the order to serve the ends of justice. As such, the FIR bearing Crime No.761/2022 in

the instant case as well as subsequent criminal proceedings of are liable to be quashed.

11. Consequently, this petition under Section 482 of Cr.P.C. is allowed. FIR bearing Crime No.761/2022, registered at P.S., Aerodrome, Indore against the applicant for the offences punishable under Section 25 of Arms Act and subsequent criminal proceedings are hereby quashed.

Patil



(SATYENDRA KUMAR SINGH)

JUDGE