

2025 LiveLaw (SC) 552

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
PANKAJ MITHAL; J., S.V.N. BHATTI; J.
SLP(Crl.) Diary No. 28242/2019; MAY 06, 2025
STATE OF RAJASTHAN *versus* GOPAL & ORS.

Narcotic Drugs and Psychotropic Substances Act, 1985 (NDPS Act); Section 42 - Search and Seizure – Competency of In-Charge SHO - Held: In the absence of the designated Station House Officer, the In-Charge Station House Officer is competent to exercise powers under Section 42 of the NDPS Act, including conduct of search, seizure and arrest without warrant, provided he belongs to the category of officers empowered by the State Government notification issued under the said provision. The Supreme Court set aside the High Court order quashing the FIR on the ground that the search was conducted by an unauthorised officer (In-Charge SHO). The Court clarified that Section 42 does not require the search to be carried out exclusively by the officer actually posted as SHO; an officer holding temporary charge as SHO, duly authorised under the notification, is equally competent. [Followed: *State of Rajasthan v. Bheru Lal*, (2013) 11 SCC 730]

[Arising out of impugned final judgment and order dated 01-09-2017 in SBCRMP No. 3073/2014 passed by the High Court of Judicature for Rajasthan at Jodhpur]

For Petitioner(s) Mr. Shiv Mangal Sharma, A.A.G. Ms. Shalini Singh, Adv. Ms. Nidhi Jaswal, AOR

For Respondent(s) Mr. Surya Kant, AOR Mrs. Priyanka Tyagi, Adv.

ORDER

1. Delay condoned.
2. Leave granted.
3. Heard learned counsel for the parties.
4. The respondents were charged in connection with FIR No.552 of 2011 dated 10.09.2011, registered with Police Station Nimbahera, District-Chittorgarh, under Sections 8/18, 25 and 29 of the Narcotic Drugs and Psychotropic Substances Act, 1985¹. The respondents filed a petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of the criminal proceedings arising therefrom. The High Court by the order impugned dated 01.09.2017 has quashed the said proceedings for the reason that the search was conducted by an unauthorized officer.
5. The submission of learned counsel appearing for the appellant is that the In-Charge Station House Officer is an authorized person to conduct the search as per Section 42 of the Act.
6. Vide the notification issued under Section 42 of the Act, the State Government has authorized all Inspectors of Police and Sub-Inspectors of Police posted as Station House Officers² to exercise the powers mentioned in Section 42 of the Act with immediate effect.
7. In the case at hand, the SHO 'Veera Ram Choudhary', was absent on the relevant date and therefore, on 09.09.2011, he has handed over the charge of the SHO to the Circle Inspector (SubInspector, 'Shri Kamal Chand') who has carried out the search.

¹ hereafter referred to as 'the Act'.

² hereinafter referred to as 'SHO'.

8. In *State of Rajasthan Vs. Bheru Lal*: (2013) 11 SCC 730, vide paragraph '15', it has been held that the person holding temporary charge as Station House Officer at the relevant time is competent to carry out the search.
9. In view of the aforesaid facts and circumstances, the submission that the Officer ought to be actually posted as SHO and not as In-Charge SHO is of no substance and cannot be accepted.
10. Accordingly, we are of the opinion that the High Court manifestly erred in interpreting Section 42 of the Act and in holding that the In-Charge SHO was not competent to conduct the search.
11. Accordingly, the order impugned dated 01.09.2017 passed by the High Court is hereby set aside and the trial is directed to continue in accordance with law, expeditiously.
12. The present appeal is allowed in the above terms.
13. Pending application(s), if any, shall stand disposed of.

© All Rights Reserved @LiveLaw Media Pvt. Ltd.

*Disclaimer: Always check with the original copy of judgment from the Court website. Access it [here](#)