

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO. _____ OF 2025
(Arising out of SLP(Crl.) No. _____ of 2025)
(@ Diary No. 28242/2019)

STATE OF RAJASTHAN

APPELLANT(S)

VERSUS

GOPAL & ORS.

RESPONDENT(S)

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

1 hereafter referred to as 'the Act'.

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(Sub-Inspector, 'Shri Kamal Chand') who has carried out the search.

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.

.....J.
[PANKAJ MITHAL]

.....J.
[S.V.N. BHATTI]

NEW DELHI;
MAY 06, 2025.
SD

ITEM NO.1

COURT NO.15

SECTION II

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SPECIAL LEAVE PETITION (CRIMINAL)..... Diary No. 28242/2019

[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]

STATE OF RAJASTHAN

PETITIONER(S)

VERSUS

GOPAL & ORS.

RESPONDENT(S)

(IA No.128495/2019-CONDONATION OF DELAY IN FILING and IA No.128497/2019-EXEMPTION FROM FILING O.T.)

Date : 06-05-2025 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE PANKAJ MITHAL
HON'BLE MR. JUSTICE S.V.N. BHATTI

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.

UPON hearing the counsel the Court made the following
O R D E R

- 1. Delay condoned.**
- 2. Leave granted.**
- 3. The present appeal is allowed in terms of the signed order which is placed on the file.**
- 4. Pending application(s), if any, shall stand disposed of.**

(SNEHA DAS)
SENIOR PERSONAL ASSISTANT

(NIDHI MATHUR)
COURT MASTER (NSH)