

**Shiam Lal Vs. King-emperor**

**Shiam Lal Vs. King-emperor**

**SooperKanoon Citation :** [sooperkanoon.com/458113](http://sooperkanoon.com/458113)

**Court :** Allahabad

**Decided On :** May-10-1927

**Reported in :** AIR1927All516; 103Ind.Cas.108

**Appellant :** Shiam Lal

**Respondent :** King-emperor

**Judgement :**

**Dalal, J.**

1. Shiam Lal and Lal Bihari have been separately convicted, but their appeals may be disposed of by one judgment. They are brothers, and their houses were searched at the same time and under the same circumstances. A stolen gun and another gun, cartridges, caps, bullets, etc., were found on search in the house of Shiam Lal, and cartridges in the house of Lal Bihari. The objection made by the learned Counsel for the appellants was that the search for the seizure of arms was not made in accordance with provisions of Section 25 of the Arms Act under a warrant from a Magistrate. It must, however, be remembered that the searches were being made for recovery of property alleged to have been stolen during several dacoities, and the police officers were justified in making a search under Section 165 of the Code of Criminal Procedure. In my opinion, the learned Judge has conceded to the defence much more than it deserved. Though a Sub-Inspector not in charge of a police station entered the houses of appellants the

search was really conducted by a Circle Inspector who stood outside the house and directed the Sub-Inspector. Under Section 551 of the Code of Criminal Procedure, police officers superior in rank to an officer in charge of a police station may exercise the same powers, throughout the local area to which they are appointed, as may be exercised by such officer within the limits of his station. The Circle Inspector was, therefore, competent to conduct the search under Section 165, and there was therefore nothing illegal in it when it was made under his supervision. There is no direct evidence that the Circle Inspector did not record in writing the grounds of his belief that the house contained stolen property and did not specify in such writing, so far as was possible, the thing for which search had to be made. In Clause (4) of Section 165 it is directed that the provisions of the Code as to search warrants contained in Sections 102 and 103 shall, so far as may be, apply to a search made under Section 165. The police took two independent witnesses with them and did not call witnesses from the village, and they were wise in their choice, because it is apparent that witnesses from the village who have come forward in defence are making false statements. Shiam Lal is a zamindar and lambardar of the village, and is a man of considerable influence. It would have been the height of folly to obtain search witnesses from his village before the raid was made. The provisions of Clause (4) of Section 165 are not imperative, but they apply to a search by the police the provisions of Sections 102 and 103 of the Code of Criminal Procedure 'so far as may be.' In my opinion, the search under Section 165 was perfectly legal. No complaint was made that the provisions of Section 165 had not been complied with; and one of the guns found in the house of Shiam Lal has been proved to be stolen property.

2. The want of compliance with the provisions of Section 25 of the Arms Act cannot save the appellants from the consequences of unlicensed arms being found in their possession. The learned Judge of the lower Court has satisfied himself that there was no cause for suspicion that the firearms were planted in the houses of the appellants. The learned Judge has made a very careful inquiry, and I am satisfied that the search was genuine, and that arms and ammunition were found in the houses of appellants as alleged. The learned Judge has given reasons for convicting Shiam Lal under Section 20 of the Arms Act and inflicting a severer punishment than could be inflicted under Section 19 of the Arms Act. In

the circumstances of the case I consider that the sentences passed on the appellants are well deserved. I dismiss the appeals.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**