

**Ghamandi Singh Vs. State**

**Ghamandi Singh Vs. State**

**SooperKanoon Citation :** [sooperkanoon.com/687626](http://sooperkanoon.com/687626)

**Court :** Delhi

**Decided On :** Nov-29-1982

**Reported in :** 25(1984)DLT170; 1984RLR3

**Judge :** N.N. Goswamy, J.

**Acts :** [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 243; Delhi Gambling Act, 1955 - Sections 7

**Appeal No. :** Criminal Miscellaneous Appeal No. 154 of 1982

**Appellant :** Ghamandi Singh

**Respondent :** State

**Advocate for Pet/Ap. :** K.K. Sud and; P.S. Sharma, Advs

**Judgement :**

**N.N. Goswamy, J.**

(1) The Petitioner was prosecuted by Police Station Patel Nagar for the offence punishable under section 7 of the Delhi Gambling Act. He along with one Joginder Chawla was apprehended on 6/08/1981 at 5 p.m. and was arrested by the Sub-Inspector on the allegations that they were playing cards by staking money in a public park near Satyam Cinema in Patel Nagar. It was alleged that the petitioner and his accomplice were playing the game of Flash and that in the process of

laying a raid to apprehend the accused they threw the three cards held by each on the heap of the undistributed cards and mixed the money in the stake money. The police officer took into possession the 52 playing cards and the total amount of Rs. 12.00 and that the accused thus committed an offence under section 12 of the Delhi Gambling Act by playing the game of Flash in public place.

(2) It appears that two accused were produced before the learned Metropolitan Magistrate on 7.8.1981 where they pleaded guilty and were sentenced to imprisonment till the rising of the court and a fine of Rs. 100.00 each. A revision petition against the said order of the Metropolitan Magistrate was dismissed in limine by the learned Additional Sessions Judge.

(3) It is against the aforesaid order of the learned Additional Sessions Judge that the present petition under section 482 of the Code of Criminal Procedure has been filed. I have perused the register of Summary trial relating to the case before me. It is recorded 'Offence explained, both the accused persons pleaded guilty to oral notice that they were gambling. They are convicted and sentenced to T.R.C. and fine of Rs. 100.00 each. In default 10 days S.I.'

(4) The petition has to be allowed on the short ground that there has been a non-compliance with the mandatory provisions of Sections 251 and 252 of the Code of Criminal Procedure and recording the joint plea, in the circumstances, was not permissible. It is well settled that the provisions of Section 243 new Section 252 are mandatory and its non-compliance vitiates the trial and the same is not saved by section 537 of the Code of Criminal Procedure. Further regarding the plea of guilt, simply making a note that the accused persons pleaded guilty without there being any indication as to what the accused pleaded is not in compliance with Section 243 of the Code. (See : 1974 Raj. L.R. 104, 1968 Cr. L.J. 427, 1962 P L R 906 and 1972 Cr. L.J. 540.

(5) Having found these defects, the Revision Petition has to be allowed, but now it is to be seen whether in the circumstances, the case should be sent back to the Metropolitan Magistrate for fresh trial or not. Considering that the offence is of a very petty nature where only Rs. 12.00 were recovered and two persons were involved. The sword has been banging for over a year and it is not proper, in my

opinion, that the sword should be allowed to hang on the neck of the persons for a longer period. Consequently, THE petition is allowed and the petitioner is acquitted of the charge.

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