

Mul Chand Vs. State of Rajasthan

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Court : Rajasthan

Decided On : May-04-1992

Reported in : 1992(2)WLN30

Judge : Mohini Kapur, J.

Appeal No. : S.B.Criminal Misc. Petition No. 539 of 1992

Appellant : Mul Chand

Respondent : State of Rajasthan

Judgement :

Mohini Kapur, J.

1. Challan for offence under Sections 8/18 and 8/21 of the NDPS Act was presented by the A.P.P. before M.J.M. Sangod district Kota. On this, the learned Magistrate took cognizance on 6th April, 1992. The petitioner had been arrested on 9th January, 1992.

2. The learned Counsel for the petitioner has contended that offences under the NDPS Act are triable by Special Court to be constituted by the Government and a person who is a Sessions Judge or Addl. Sessions Judge is alone is qualified for appointment. Under Section 36(d) of the NDPS Act, the offences committed under the NDPS Act prior to the constitution of the Special Court are to be tried by court

of Sessions Judge. There is no provision under which the Magistrate can take cognizance of the offences or try the accused. Hence, cognizance taken by the Magistrate deserves to be quashed. The petitioner shall be released. However, he shall give a personal bond for Rs.5000/- undertaking to remain at the address given by him, in the petition and that he will appear in the court in which he may be asked to appear in case a writ is filed before the proper court.

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