

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRM M-23800 of 2011

Date of decision : 11.05.2016

Ram Sarup & ors.

....Petitioners

V/s

State of Punjab

....Respondent

BEFORE : HON'BLE MR. JUSTICE RAJAN GUPTA

Present: Mr. R.S. Bajaj, Advocate for the petitioners.

Mr. Ankur Jain, AAG Punjab.

RAJAN GUPTA J.

Challenge in this petition is to order passed by Judicial Magistrate Ist Class, Jalandhar whereby application under section 239 Cr.P.C. filed by applicant for discharging the accused-petitioners has been dismissed.

Order has been challenged on the ground that action could have been taken under section 64 of the Act by an officer not below the rank of Sub Inspector. According to counsel, word 'may' used in the said section is in context of search/seizure of relevant material/goods. However, section has not been correctly interpreted by the court below. He prays that matter be remitted to the same court for decision afresh.

Aforesaid prayer has not been opposed by State counsel.

In view of above, impugned order is hereby set-aside. Matter is remitted to same court for decision afresh in accordance with law.

May 11, 2016

Ajay

(RAJAN GUPTA)
JUDGE