* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Decided on: 8th July, 2019*

\+ **W.P.(CRL) 1828/2019**

MANDEEP SINGH & ANR. .... Petitioners
Represented by: Mr.N.P.Singh with Mr.Shekhar Budakoti, Advocates

versus

STATE .... Respondent
Represented by: Mr.Amanpreet Singh, proxy counsel for Mr.Rahul Mehra, Standing Counsel for the State
Insp. Om Prakash Lekhwal with SI Laxman Chaudhary, PS Hauz Khas

MUKTA GUPTA, J. (ORAL)

Crl.M.A13248/2019 (exemption)

Allowed, subject to all just exceptions.

W.P.(CRL) 1828/2019 & Crl.M.A. 13247/2019 (stay)

1. By this petition the petitioners seek quashing of the order dated 11th July, 2014 and 6th August, 2014 passed by the learned Metropolitan Magistrate wherein the learned Metropolitan Magistrate dismissed the application of the petitioner and passed the order on charge on the ground that the petitioners are not liable to be discharged for the reason a Head Constable has the power to conduct a raid under the Delhi Excise Act.

2. Learned counsel for the petitioner in the present petition has challenged the orders on the limited ground that a Head Constable of Delhi Police is not competent to conduct a raid of the excise and hence for want of

competence of the complainant/Investigating Officer, no charge could have been framed against the petitioner.

3. Section 6 of the Delhi Excise Act, 2009 provides as under:

> "***6. Excise Intelligence Bureau** – (1) There shall be an Excise Intelligence Bureau, headed by the Excise Commissioner, consisting of such number of excise officers and staff as may be appointed by the Government and such other officers and staff as may be appointed by the Excise commissioner with the prior approval of the government.*
>
> *(2) The Excise Intelligence Bureau shall –*
>
> *(a) Collect intelligence, keep surveillance and maintain information of excise offences;*
> *(b) Collect and disseminate information regarding prominent excise offenders and history-sheeters;*
> *(c) Detect, monitor detection, investigation and trial of offences under this Act."*

4. Further, Section 9 of the Delhi Excise Act, 2009 provides as under:

> *"**9. Investing persons with special powers. –** The government may, by notification, invest in any Government functionary not being an excise officer, with powers to perform all or any of the functions of any excise officer under this Act, and such person shall, in the exercise of these functions, be deemed to be an excise officer."*

5. It is thus evident from the conjoint reading of the two provisions that besides the officers of the Excise Intelligence Bureau, the Government can by way of notification invest in any of the government functionary power to exercise the functions of an Excise Officer. Rule 148, the Delhi Excise

Rules 2010 provide for the classes of Excise Officers under Class 1 and Class 2 as under:

> "***148. Classes of Excise Officers. –*** *There shall be two classes of Excise Officers, designated as Class 1 and Class 2. These shall be as follows:-*
>
> *(1)(a) Class I Excise Officers:*
> *(i) Deputy Commissioner;*
> *(ii) Assistant Commissioner;*
> *(iii) Superintendent Excise;*
> *(iv) Inspector (Excise).*
>
> *(2) (b)Class 2 Excise Officers*
> *(i) Excise Clerk;*
> *(ii)Excise Constable.*
>
> *(3) The persons mentioned below are invested with the powers of Excise Officers of Class 1 and Class 2 respectively:*
>
> *(a)To exercise the powers of Class 1 Excise Officer:*
> *(i) Deputy Commissioner of Police;*
> *(ii) Assistant Commissioner of Police;*
> *(iii)Inspector Police;*
> *(iv) Sub-Inspector Police;*
> *(v) Officers posted in the Excise Intelligence Bureau of the above ranks;*
> *(vi) Sub-Divisional Magistrate;*
> *(vii) Tehsildar;*
> *(viii) Naib Tehsildar.*
>
> *(b) To exercise the powers of Class 2 Excise Officer:*
> *(i) Assistant Sub-Inspector Police;*
> *(ii) Head Constable;*
> *(iii) Police Constable;*

(iv) Officers posted in the Intelligence Bureau of the above ranks."

6. A perusal of Rule 148 (3)(b) reveals that a Head Constable and a Constable of the Police have been invested with the power of Excise Officer of Class 2 and thus they would be competent to conduct a raid as well as investigate an offence under the Delhi Excise Act and Delhi Excise Rules. In view of the fact that there is no illegality on the issue raised by the petitioner, this Court finds no merit in the petition.

7. Petition and application are dismissed.

(MUKTA GUPTA)
JUDGE

JULY 08, 2019
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