

## Chattar Singh Vs State

**Court:** Delhi High Court

**Date of Decision:** Feb. 7, 1985

**Citation:** (1986) ILR Delhi 655

**Hon'ble Judges:** Charanjit Talwar, J

**Bench:** Single Bench

**Advocate:** Bharati Anand, for the Appellant;

### Judgement

Charanjit Talwar, J.

(1) This petition was admitted by J. D. Jain J. on 11th January, 1985, to consider the question ""Whether in view of section 75, Punjab Excise Act.

cognizance could be taken in this case on the basis of police report"".

(2) It was set down for hearing on 4th February, 1985. when neither the counsel for the petitioner nor the petitioner himself appeared. The case

was adjourned to today. Again. there is no appearance on behalf of the petitioner. Therefore, I proceed to judgment with the assistance of Mr.

Bharti An and, counsel for the State.

(3) Section 75 of the Punjab Excise Act, 1914, as applicable to the Union Territory of Delhi, reads as follows :-

75(1)No Magistrate shall take cognizance of an offence, punishable.-

(A)under section 61 or section 66, except on his own knowledge or suspicion or on the complaint or report of an excise officer, or

(B)under section 62, section 63, section 64, section 65, section 68 or section 70, except on the complaint or report of the Collector or an Excise

Officer authorised by him in that behalf.

(2)Except with the special sanction of the Lieutenant Governor of Delhi, the magistrate shall take cognizance of any offence punishable under this

Act. unless the prosecutions instituted within a year after the date on which the offence is alleged to have been committed"".

(4) In the present case the offence found to have been committed is one u/s 61 of the Act. Petitioner's case seems to be that the learned

Magistrate could not have taken cognizance, of the offence under this section except on a complaint or report of an excise officer. An excise

officer has been defined u/s 3(8) of the Act, as under :-

(8)"excise officer" means any officer of person appointed, or invested with powers, under this Act"".

(5) Mrs. Anand, learned counsel for the State has brought to my notice statutory rules issued by the Lieutenant Governor of Delhi u/s 10 of the

Act, designating three classes of excise officers Rule 3 of the said Rules (appearing in Volume li of Delhi Administration"s Excise Department

Manual), read as under :-

3.The persons mentioned in group A & B below are u/s li of the Punjab Excise Act. as applied to the Union Territory of Delhi, invested with the

powers of an excise officer of the 1st Class and Illrd Class, respectively :

GROUP"A"

(TO exercise the powers of an excise officer of the Illrd class).

ALLSuperintendents, Assistant Superintendents and Deputy Superintendents of Police,

ALL Inspectors & Sub-Inspectors of Police,

ALL Sergeants of Police,

ALL Assistant sub-inspectors of Police,

ALL Head Constables.

GROUP"B"

(TO exercise the powers of an excise officer of the Ilrd class).

ALL Field Kunungos.

ALL Police Constables.

(6) According to the above-said Rule all the Inspectors, Sub inspectors as also all the Head Constables of Police in Delhi have been designated as

excise officers and invested with the powers exercised by these officers. Police Officers having been invested with the powers of an excise officer

u/s li of the Act, come within the purview of the definition of an excise officer, quoted above. In this view of the matter, there is no merit in this

petition. It Is dismissed. The petitioner, who is on bail, shall surrender his bail bond.