2026 INSC 329

REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. /2026
[@ SLP [CRL.] NO.11480/2025]

ELVISH YADAV @ SIDDHARTH **Appellant(s)**

VERSUS

STATE OF U.P. & ANR. **Respondent(s)**

O R D E R

1. **Leave granted.**

2. **The present appeal has been preferred against the impugned judgement and order dated 12.05.2025 passed by the High Court of Judicature at Allahabad in Application U/S 528 BNSS No. 14438/2025. The appellant is challenging the criminal proceedings emanating out of FIR No.461/2023 dated 03.11.2023, registered at P.S. Noida Sector - 49, District – Gautam Buddha Nagar, Uttar Pradesh and Chargesheet No. 1/2024 dated 05.04.2024 for the offences punishable under Sections 120-B, 284 and 289 of the Indian Penal Code (for short, 'the IPC') along with Sections 9, 39, 48-A, 49, 50 and 51 of The Wild Life (Protection) Act, 1972 (for short, 'the 1972 Act') and Sections 8, 22, 29, 30 and 32 of the Narcotic Drugs and Psychotropic Substances Act, 1985 (for**

short, 'the NDPS Act').

3. **There are two seminal issues, amongst other issues, which have arisen before us for determination in the present appeal. The first issue pertains to cognizance of an offence under Section 55 of the 1972 Act taken on the basis of a chargesheet. The second issue pertains to the scope and applicability of Section 2(xxiii) of the NDPS Act.**

4. **We have heard the arguments made at length by Ms. Mukta Gupta, the learned Senior Counsel appearing for the appellant and Mr. Apoorva Aggarwal, the learned Additional Advocate General appearing for the respondent - State as well as the learned counsel appearing for the respondent no.2. We have also perused the records, including the relevant documents.**

FACTUAL BACKGROUND

5. **The complainant in the present case, i.e., respondent no. 2 - Mr. Gaurav Gupta, was appointed as an Animal Welfare Officer in an NGO, namely, 'People for Animals'. Information was received by the respondent no. 2, through an undisclosed informant, regarding the alleged involvement of the present appellant and his associates in organizing rave parties in Noida and the National**

Capital Region (NCR) as well as their involvement in illegal procurement of venomous snakes for consumption of their venom as a narcotic substance.

6. **On 02.11.2023, the complainant is said to have contacted one Mr. Rahul *Sapera*, who has confirmed his association with the present appellant, had agreed to bring the snakes to a Banquet Hall in Noida. Acting upon this, a team of five individuals – Mr. Rahul, Mr. Titunath, Mr. Jaykaran, Mr. Narayan and Mr. Ravinath arrived at the Banquet Hall with the snakes, after which police officials from the local Police Station and the Forest Department arrived at the spot and recovered 20 millilitres of light-yellow coloured liquid and nine snakes including five cobras, one *ghoda pachhad*, two *dumohi* snakes, and one *ajgar* (python). Based on the aforesaid information, respondent no. 2 lodged the case FIR No. 461/2023 dated 03.11.2023.**

7. **Later, the statements of co-accused persons were recorded, and the medical report of nine snakes that were recovered on 02.11.2023 was also received. On 29.11.2023, the Office of the Director, State Forensic Science Laboratory, Jaipur, Rajasthan submitted the report, wherein,**

20 millilitres of light-yellow coloured liquid tested positive for the antibodies of snake venom for four common snakes, namely, Cobra, Krait, Russell's and Saw-scaled Viper.

8. **On 20.03.2024, the Principal Additional Chief Judicial Magistrate, Gautam Buddha Nagar, at the stage of remand, was of the opinion that Sections 27 and 27-A of the NDPS Act were not made out.**

9. **Upon conclusion of the investigation, the chargesheet was laid on 05.04.2024, wherein, the appellant was arraigned as accused no. 1. Pursuant thereto, the 1st Additional Chief Judicial Magistrate, Gautam Buddha Nagar passed the order taking cognizance on 31.07.2024 and summons were issued to the accused persons, including the appellant herein.**

10. **Thereafter, the appellant preferred a petition under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023 before the High Court seeking to quash the case FIR, and the subsequent criminal proceedings, including the chargesheet as well as the summoning order. *Vide* the impugned order dated 12.05.2025, the High Court dismissed the aforesaid petition. Aggrieved, the present appeal has been preferred.**

SUBMISSIONS ON BEHALF OF THE APPELLANT

11. **The learned Senior counsel, appearing on behalf of the appellant, vehemently submitted that the cognizance order dated 31.07.2024 passed by the Judicial Magistrate on the basis of the chargesheet filed by the prosecution is in direct contravention of the mandatory statutory restriction provided under Section 55 of Wildlife (Protection) Act, 1972. The marginal note of the aforesaid provision provides for the "cognizance of offences". Section 55 of the 1972 Act is clear, insofar as it mandates that no Court shall take cognizance of any offence under the 1972 Act, except on a Complaint made by the authorities provided thereunder. Section 55 of the 1972 Act has to be read conjointly with the definition of a complaint which is defined under Section 2(d) of the Code of Criminal Procedure, 1973 (for short, 'the Cr.P.C.'), expressly excludes a police report/chargesheet under Section 173 of the Cr.P.C. Hence, when the statute itself provides for special procedure, strict compliance of the same has to be made. Thus, a chargesheet cannot be treated as a complaint under Section 55 of the 1972 Act. Therefore, Section 55 of the 1972**

Act can be pressed into service only by way of a complaint by an officer, as provided under it, and cognizance of an offence can be taken only on the basis of a statutory complaint by an authorized officer.

12. **To buttress the aforesaid submission, the learned Senior counsel relied upon the judgements rendered by this Court in *State of Bihar v. Murad Ali Khan,* (1988) 4 SCC 655 and *Jeewan Kumar Raut & Anr. v. Central Bureau of Investigation,* (2009) 7 526, wherein, it has been consistently held that the procedure provided under special statutes must be complied with strictly.**

13. **The second contention raised by the learned Senior counsel is with respect to the invocation of the NDPS Act. The alleged psychotropic substance, namely, "Snake Venom" recovered from the co-accused person(s) is not notified as a scheduled substance under the NDPS Act. Further, no recovery of the snake venom, anti-bodies of snake venom or any other substance has been effected from the appellant. Admittedly, the report submitted by the State Forensic Science Laboratory, categorically, stated that the liquid recovered from the co-accused were anti-bodies to snake venom. The medical reports of the recovered snakes**

further confirmed that they did not possess venom glands.

14. **Section 2(xxiii) of the NDPS Act defines a "psychotropic substance" as any substance, natural or synthetic, or any natural material or any salt or preparation of such substance or material included in the list of psychotropic substances specified in the Schedule of the NDPS Act. The prosecution itself could not have drawn a contrary inference or expanded the offences beyond those provided under the Schedule of the NDPS Act. Therefore, the Investigating Agency could not have invoked Sections 8, 22, 29, 30, and 32 of the NDPS Act, since no psychotropic substance is involved.**

15. **Lastly, the learned Senior counsel contended that the offences punishable under Sections 284 and 289 of the IPC have been invoked on the basis of a video, wherein, as the per the chargesheet the appellant had handled snakes in a dangerous manner. The offences under the IPC are not made out, since they were the subject matter of FIR No.146/2024, dated 30.03.2024 registered at Police Station- Badshahpur, District - Gurugram, Haryana, on the basis of a previous complaint under Section 156(3) of the Cr.P.C., given by the**

brother of the complainant in the present case, who is also a witness in the case FIR. A closure report was filed in the said complaint pursuant to the investigation conducted by the Investigating Officer. The very same allegations have been factored into the present case, in order to invoke the offences punishable under Sections 284 and 289 of the IPC.

SUBMISSIONS ON BEHALF OF THE RESPONDENTS

16. ***Per contra,*** **the learned Additional Advocate General appearing for the State would submit that there are materials sufficient enough to implicate the appellant. Though the substance which was recovered does not find a place in the Schedule of the NDPS Act, taking note of the averments made and the materials indicated in the final report filed, there is no need for interference with the impugned order passed by the High Court. Even assuming that this Court finds that there is a procedural violation due to non-adherence of the mandate provided under Section 55 of the 1972 Act, the same cannot be construed to mean that the appellant can be given a clean chit.**

17. **Learned counsel appearing for the respondent no. 2/complainant would submit that even though the**

documents relied upon by the learned Senior counsel appearing for the appellant with respect to the complainant's status as an Honorary Animal Welfare Officer are not in dispute, the present complaint has been submitted on a different footing based upon his status with respect to the private organization. Accordingly, the learned counsel appearing for the respondent no. 2 supports the contentions raised by the learned counsel appearing for the State.

ANALYSIS

COGNIZANCE OF OFFENCES UNDER SPECIAL STATUTES

18. **Special statutes have distinct procedural mandates. When two fundamentally contrary views emerge on the issue of jurisdiction, it warrants an authoritative adjudication.**

19. **Though detailed submissions have been made, we shall proceed with the first seminal issue to determine whether the cognizance taken against the appellant would be *non-est* in law, in view of the non-compliance of the mandatory procedure envisaged under Section 55 of the 1972 Act.**

Section 55 of the 1972 Act

> **"[55. Cognizance of offences.— No court shall take cognizance of any offence against this Act on the complaint of any person other than—**

(a) the Director of Wild Life Preservation or any other officer authorised in this behalf by the Central Government; or
[(aa) the Member-Secretary, Central Zoo Authority in matters relating to violation of the provisions of Chapter IV-A; or]
[(ab) Member-Secretary, Tiger Conservation Authority; or
[(ac) Director of the concerned tiger reserve; or]
[(ad) the Management Authority or any officer, including an officer of the Wild Life Crime Control Bureau, authorised in this behalf by the Central Government; or]
(b) the Chief Wild Life Warden, or any other officer authorised in this behalf by the State Government [subject to such conditions as may be specified by that Government]; or
[(bb) the officer-in-charge of the zoo in respect of violation of provisions of Section 38-J; or]
(c) any person who has given notice of not less than sixty days, in the manner prescribed, of the alleged offence and of his intention to make a complaint, to the Central Government or the State Government or the officer authorised as aforesaid.]"

(emphasis supplied)

20. **A bare perusal of the provision makes it clear that under Section 55 of the 1972 Act, cognizance of an offence can be taken by a Court only on the basis of a Complaint made by the officers/authorities mentioned therein. It is trite law that when a statute provides for a special procedural mechanism to be followed, the same shall be adhered to, by excluding the general statutory provisions. It is an equally well-settled rule of interpretation of statutes that strict and literal interpretation shall be**

applicable to penal law.

21. **The exercise of power by an authority who is not competent/authorised to do so, results in vitiation of its foundation. An example of the same being that Revenue Authorities cannot exercise the powers and jurisdiction vested in Police Officers under Chapter XII of the Cr.P.C., for the purposes of registering and subsequently investigating into a First Information Report. A power exercised without jurisdiction results in nullity, and further proceedings emanating therefrom, also stand nullified. Therefore, the action becomes *non est* in the eyes of law.**

22. **This can be understood as the principle of ripple effect, wherein, an initial action which is void for want of jurisdiction would lead to the inevitable consequence that all subsequent actions, thereafter, would also result in a nullity.**

23. **What has to be noted in an action is whether there exists a fundamental illegality, or a mere procedural irregularity. Irregularities in procedure may be curable, however, an action taken in the complete absence of any authority becomes nullified or illegal from its very inception. It may also be noted that when two avenues are**

available under normal circumstances, and one avenue which is adopted lacks complete jurisdiction, as against the other avenue where jurisdiction can be exercised but only procedural impropriety exists, then the latter requires a challenge.

24. **This Court, while dealing with a similar issue in the judgement rendered in *State of Bihar v. Murad Ali Khan,* (1988) 4 SCC 655*, vide* paragraph 13, had held that prosecution under the 1972 Act must be initiated strictly on the basis of a statutory complaint, and cognizance taken upon a police report would be legally impermissible.**

> **"13. What emerges from a perusal of these provisions is that cognizance of an offence under the "Act" can be taken by a court only on the complaint of the officer mentioned in Section 55. The person who lodged complaint dated June 23, 1986 claimed to be such an officer. In these circumstances even if the jurisdictional police purported to register a case for an alleged offence against the Act, Section 210 (1) would not be attracted having regard to the position that cognizance of such an offence can only be taken on the complaint of the officer mentioned in that section. Even where a Magistrate takes cognizance of an offence instituted otherwise than on a police report and an investigation by the police is in progress**

in relation to same offence, the two cases do not lose their separate identity. The section seeks to obviate the anomalies that might arise from taking cognizance of the same offence more than once. But, where, as here, cognizance can be taken only in one way and that on the complaint of a particular statutory functionary, there is no scope or occasion for taking cognizance more than once and, accordingly, Section 210 has no role to play. The view taken by the High Court on the footing of Section 210 is unsupportable."

(emphasis supplied)

25. **Another instance where the requirement of compliance with the mandate of a special statute can be understood from a perusal of Section 22 of the Transplantation of Human Organs Act, 1994 (for short, the 'TOHO Act'), which is *pari materia* to the provision under Section 55 of the 1972 Act. In *Jeewan Kumar Raut & Anr. v. Central Bureau of Investigation,* (2009) 7 SCC 526, this Court has held as under:**

> **"19. TOHO is a special Act. It deals with the subjects mentioned therein, viz, offences relating to removal of human organs, etc. Having regard to the importance of the subject only, enactment of the said regulatory statute was imperative.**
>
> **TOHO provides for appointment of an appropriate authority to deal with the**

matters specified in sub-section (3) of Section 13 thereof. By reason of the aforementioned provision, an appropriate authority has specifically been authorised inter alia to investigate any complaint of the breach of any of the provisions of TOHO or any of the rules made thereunder and take appropriate action. The appropriate authority, subject to exceptions provided for in TOHO, thus, is only authorised to investigate cases of breach of any of the provisions thereof, whether penal or otherwise."

(emphasis supplied)

26. **It was, therefore, held that the TOHO Act, being a special statute, specifically bars taking of cognizance, except upon a complaint made by an authority expressly authorized under the said provision to make such a complaint.**

27. **The legislature has enacted similar provisions under other special statutes which are analogous to Section 55 of the 1972 Act, that set forth the procedure for taking "cognizance of offences". *Pari materia* provisions can be traced in Section 32 of the Drugs and Cosmetics Act, 1940, Section 22 of the Mines and Minerals (Development and Regulation) Act, 1957, Section 13 of the Official Secrets Act, 1923 and Section 19 of the Environmental (Protection) Act, 1986.**

28. **In *State (NCT of Delhi) v. Sanjay*, (2014) 9 SCC 772, this Court had held that the Jurisdictional Magistrate shall take cognizance upon a complaint filed by a duly authorized and empowered officer under the Act, in case of violation of Section 4 and other provisions of the Mines and Minerals (Development and Regulation) Act, 1957.**

> **"70. There cannot be any dispute with regard to restrictions imposed under the MMDR Act and remedy provided therein. In any case, where there is a mining activity by any person in contravention of the provisions of Section 4 and other sections of the Act, the officer empowered and authorised under the Act shall exercise all the powers including making a complaint before the Jurisdictional Magistrate. It is also not in dispute that the Magistrate shall in such cases take cognizance on the basis of the complaint filed before it by a duly authorised officer. In case of breach and violation of Section 4 and other provisions of the Act, the police officer cannot insist the Magistrate for taking cognizance under the Act on the basis of the record submitted by the police alleging contravention of the said Act. In other words, the prohibition contained in Section 22 of the Act against prosecution of a person except on a complaint made by the officer is attracted only when such person is sought to be prosecuted for contravention of Section 4 of the Act and**

not for any act or omission which constitutes an offence under the Penal Code."

(emphasis supplied)

29. **This Court in *Union of India v. Ashok Kumar Sharma,* (2021) 12 SCC 674, while considering the interplay between the Cr.P.C., 1973 and the Drugs and Cosmetics Act, 1940 (for short, '1940 Act') observed and held as under:**

> "***Section 32 of the Act***
>
> **40. Coming to Section 32 of the Act, as already noted by us, it falls in Chapter IV. Inspectors are appointed by the Central Government or the State Government from persons possessing prescribed qualifications under a notification. Section 21 contemplates prescribing under rules the powers which may be exercised by the Inspectors apart from the duties which may be performed by him inter alia. Section 22 of the Act provides for power of search by the Inspectors. They have power to inspect any premise, take samples, powers of search, examine any record, register, material object and seize them. The legislature has undoubtedly applied the provisions of CrPC in regard to searches under the Act. Section 23 elaborately provides for procedure to be adopted by Inspectors.**
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> **41. Section 32 falling under section heading "Cognizance of Offences" declares, in unambiguous words, that prosecution,**

under Chapter IV, can be instituted only by:

(1) an Inspector

(2) any Gazetted Officer of the Central Government or State Government authorised in writing by the respective Government by a general or special order made in this behalf by that Government

(3) the person aggrieved

(4) a recognised consumer association whether such person is a member of that association or not.

Section 32 further proclaims that unless it is otherwise provided, no court inferior to a Court of Session shall try an offence punishable under Chapter IV. Section 32(3) makes it clear that nothing in Chapter IV would stand in the way of the person being prosecuted against under any other law for any act or omission which constitutes an offence against this Chapter. Section 32 was substituted by Act 22 of 2008. Prior to the substitution it read as follows:

"32. Cognizance of offences.—(1) No prosecution under this Chapter shall be instituted except by an Inspector or by the person aggrieved or by a recognised consumer association whether such person is a member of that association or not.

(2) No court inferior to that of a Metropolitan Magistrate or of a Judicial Magistrate of the First Class shall try an offence punishable under this Chapter.

(3) Nothing contained in this Chapter shall be deemed to prevent any person from being prosecuted under any other law for any act or omission which constitutes an offence against this Chapter."

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46. The Scheme of the Act must be borne in mind when Section 32, which provides, inter alia, that an Inspector can set the ball rolling, is considered. The Inspectors, under the Act, are to possess the prescribed qualifications. The qualifications bear a nexus with the performance of the specialised duties which are to be performed under the Act. Apparently, knowledge about the drugs and cosmetics goes a long way in equipping them to perform their multifarious functions. Section 22 clothing the Inspector with powers must also be viewed thus in the context of the legislative value judgment that a complaint is to be moved by the Inspector under the Act and not by a police officer under CrPC. The Inspector is expected to inspect premises where drugs and cosmetics are being manufactured, sold, stocked, exhibited, offered for sale or distributed. Samples are to be taken at the points of manufacturing, selling, stocking and the points of delivery. He is expected also, where he has reason to believe that an offence under the Act has been committed, to search any person, enter any place, stop and search any vehicle, examine records, and documents and seize the same.

Last but not the least, Section 22(1)(d) declares that he may exercise other powers as may be necessary for carrying out the purposes of Chapter IV or any Rules made thereunder. The elaborate procedure to be followed by the Inspectors is also provided by the law.

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49. Section 32 of the Act undoubtedly provides for taking cognizance of the offence by the court only at the instance of the four categories mentioned therein. They are:

(a) Inspector under the Act;

(b) Any Gazetted Officer empowered by the Central or the State Government;

(c) Aggrieved person; and

(d) Voluntary Association.

It is clear that the legislature has not included the police officer as a person who can move the court. Before the matter reaches the court, under Section 190CrPC, ordinarily starting with the lodging of the first information report leading to the registration of the first information report, investigation is carried out culminating in a report under Section 173. The police report, in fact, is the report submitted under Section 173CrPC to the court. Under Section 190CrPC, the court may take cognizance on the basis of the police report. Such a procedure is alien to Section 32 of the Act. In other words, it is not open to the police officer to submit a report under Section 173 CrPC in regard

to an offence under Chapter IV of the Act under Section 32. In regard to offences contemplated under Section 32(3), the police officer may have power as per the provisions concerned. Being a special enactment, the manner of dealing with the offences under the Act, would be governed by the provisions of the Act. It is to be noted that Section 32 declares that no court inferior to the Court of Session shall try offence punishable under Chapter IV. We have noticed that under Section 193CrPC, no Court of Session can take cognizance of any offence as a court of original jurisdiction unless the case has been committed to it by a Magistrate under CrPC. This is, undoubtedly, subject to the law providing expressly that that Court of Session may take cognizance of any offence as the court of original jurisdiction. There is no provision in the Act which expressly authorises the Special Court which is the Court of Session to take cognizance of the offence under Chapter IV. This means that the provisions of Chapters XV and XVI CrPC must be followed in regard to even offences falling under Chapter IV of the Act. Starting with Section 200 of the Act dealing with taking of cognizance by a Magistrate on a complaint, including examination of the witnesses produced by the complainant, the dismissal of an unworthy complaint under Section 203 and following the procedure under Section 202 in the case of postponement of issue of

process are all steps to be followed. It is true that when the complaint under Section 32 is filed either by the Inspector or by the authorised Gazetted Officer being public servants under Section 200, the Magistrate is exempted from examining the complainant and witnesses."

(emphasis supplied)

30. **Thus, the mode of institution of prosecution under Section 190 of the Cr.P.C. as against the one under Section 32 of the 1940 Act was distinguished by this Court. It was held that a Police Officer cannot prosecute the offenders in relation to cognizable offences under Chapter IV of the 1940 Act. Since a distinct mode for institution of prosecution has been provided under Section 32 of the 1940 Act, cognizance taken upon a police report would be impermissible in law.**

31. **It must be reiterated that when an exception is carved out under a Special statute, there is an express exclusion of jurisdiction of the authorities who otherwise are empowered to take cognizance under the Cr.P.C. Thus, general penal provisions are not *pari passu* to the penal provisions provided under special statutes. We say so to reiterate the settled maxim of *generalia specialibus non derogant* viz. general things do not derogate from special things.**

32. **In *A.R. Antulay v. Ramdas Sriniwas Nayak*, (1984) 2 SCC 500, this Court while prescribing the methods for taking cognizance of an offence, had observed as under:**

> **"6. It is a well recognised principle of criminal jurisprudence that anyone can set or put the criminal law into motion except where the statute enacting or creating an offence indicates to the contrary. The scheme of the Code of Criminal Procedure envisages two parallel and independent agencies for taking criminal offences to court. Even for the most serious offence of murder, it was not disputed that a private complaint can, not only be filed but can be entertained and proceeded with according to law. *Locus standi* of the complainant is a concept foreign to criminal jurisprudence save and except that where the statute creating an offence provides for the eligibility of the complainant, by necessary implication the general principle gets excluded by such statutory provision. Numerous statutory provisions, can be referred to in support of this legal position such as (i) Section 187-A of Sea Customs Act, 1878 (ii) Section 97 of Gold Control Act, 1968 (iii) Section 6 of Import and Export Control Act, 1947 (iv) Section 271 and Section 279 of the Income Tax Act, 1961 (v) Section 61 of the Foreign Exchange Regulation Act, 1973, (vi) Section 621 of the Companies Act, 1956 and (vii) Section 77 of the Electricity Supply Act. This list**

is only illustrative and not exhaustive. While Section 190 of the Code of Criminal Procedure permits anyone to approach the Magistrate with a complaint, it does not prescribe any qualification the complainant is required to fulfil to be eligible to file a complaint. But where an eligibility criterion for a complainant is contemplated specific provisions have been made such as to be found in Sections 195 to 199 of the CrPC. These specific provisions clearly indicate that in the absence of any such statutory provision, a locus standi of a complainant is a concept foreign to criminal jurisprudence. In other words, the principle that anyone can set or put the criminal law in motion remains intact unless contra-indicated by a statutory provision.…Therefore, prosecution for serious offences is undertaken in the name of the State representing the people which would exclude any element of private vendetta or vengeance. If such is the public policy underlying penal statutes, who brings an act or omission made punishable by law to the notice of the authority competent to deal with it, is immaterial and irrelevant unless the statute indicates to the contrary. Punishment of the offender in the interest of the society being one of the objects behind penal statutes enacted for larger good of the society, right to initiate proceedings cannot be whittled down, circumscribed or fettered by putting it

into a strait-jacket formula of locus standi unknown to criminal jurisprudence, save and except specific statutory exception. To hold that such an exception exists that a private complaint for offences of corruption committed by public servant is not maintainable, the court would require an unambiguous statutory provision and a tangled web of argument for drawing a far fetched implication, cannot be a substitute for an express statutory provision.…

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18. It is a well-established canon of construction that the court should read the section as it is and cannot rewrite it to suit its convenience, nor does any canon of construction permit the court to read the section in such manner as to render it to some extent otiose. Section 8(1) says that the Special Judge shall take cognizance of an offence and shall not take it on commitment of the accused. The Legislature provided for both the positive and the negative. It positively conferred power on Special Judge to take cognizance of offences and it negatively removed any concept of commitment. It is not possible therefore, to read Section 8(1) as canvassed on behalf of the appellant that cognizance can only be taken upon a police report and any other view will render the safeguard under Section 5-A illusory.

(emphasis supplied)

33. **To conclude, when competent authorities are vested with the powers under the respective legislations, the Courts ought not to interfere with such exercise of power in a perfunctory manner, as the same would render the scope and objective of special statutes otiose. However, to clarify, the Courts are not restricted from examining whether such exercise is being carried out in accordance with the import of the statutory provision and to regulate procedural irregularities, which may otherwise arise.**

34. **Thus, we find force in the submission made by the learned Senior counsel appearing for the appellant that what is required to be presented under Section 55 of the 1972 Act is a private complaint by a competent "authorized officer" who is empowered to do so by the provision itself. This is based upon the concept that other authorities who lack complete jurisdiction cannot deprive the authorities that very well have the jurisdiction to set criminal prosecution in motion.**

INTERPRETATION OF A PSYCHOTROPIC SUBSTANCE UNDER THE NDPS ACT

35. **The second seminal issue in the present appeal pertains to the definition of a Psychotropic**

Substance under Section 2(xxiii) of the NDPS Act.

Section 2(xxiii) of the NDPS Act

> **"(xxiii) "psychotropic substance" means any substance, natural or synthetic, or any natural material or any salt or preparation of such substance or material included in the list of psychotropic substances specified in the Schedule;"**
>
> **(emphasis supplied)**

36. **From a bare reading of the aforesaid provision, the definition of a psychotropic substance under Section 2(xxiii) of the NDPS Act has a clear import that any substance or any natural material or any salt or preparation of such substance or material has to be included in the list of substances which are specified under the Schedule of the NDPS Act. The conscious omission of the legislature in not placing snake venom or anti-bodies to snake venom under the Schedule of the NDPS Act, would clearly mean that that the said substances could not have been construed as psychotropic substances, by any stretch of imagination, warranting application of the provisions under the NDPS Act. Therefore, in our considered opinion, the recovery of the anti-bodies of snake venom from the co-accused person(s) will not fall within the purview of a psychotropic substance and, hence, does not warrant invocation of the provisions of the NDPS**

Act.

37. **This Court in *Raj Kumar Karwal v. Union of India,* (1990) 2 SCC 409, while discussing the scheme of the NDPS Act, has observed as under:**

> **"11. The scheme of the Act clearly shows that the Central Government is charged with the duty to take all such measures as it deems necessary or expedient for preventing and combating the abuse of narcotic drugs [Section 2(xiv)] and psychotropic substances [Section 2(xxiii)] and the menace of illicit traffic [Section 2(viii-a)] therein. As pointed out earlier Chapter IV defines the offences and prescribes the punishments for violating the provisions of the Act. We must immediately concede that the punishments prescribed for the various offences under the Act are very severe e.g. Sections 21 and 23 prescribe the punishment of rigorous imprisonment for a term which shall not be less than ten years but which may extend to twenty years and shall also be liable to fine which shall not be less than one lakh rupees but which may extend to two lakh rupees. Section 29 which makes abetment an offence prescribes the punishment provided for the offence abetted while Section 30 prescribes the punishment which is one half of the punishment and fine for the principal offence. In addition thereto certain presumptions, albeit rebuttable, are permitted to be raised against the accused. Counsel for the appellants, therefore, argued that when**

such extensive powers are conferred on the officers appointed under the Act and the consequences are so drastic, it is desirable that the protection of Section 25, Evidence Act, should be extended to persons accused of the commission of any crime punishable under the Act. In this connection our attention was drawn to the observations of this Court in Balbir Singh v. State of Haryana [(1987) 1 SCC 533 : 1987 SCC (Cri) 193 : JT (1987) 1 SC 210] wherein it is emphasised that when drastic provisions are made by a statute the duty of care on the authorities investigating the crime under such law is greater and the investigation must not only be thorough but also of a very high order. We, therefore, agree that as Section 25, Evidence Act, engrafts a wholesome protection it must not be construed in a narrow and technical sense but must be understood in a broad and popular sense. But at the same time it cannot be construed in so wide a sense as to include persons on whom only some of the powers exercised by the police are conferred within the category of police officers. See State of Punjab v. Barkat Ram [(1962) 3 SCR 338, 347: AIR 1962 SC 276 : (1962) 1 Cri LJ 217] and Raja Ram Jaiswal v. State of Bihar [(1964) 2 SCR 752, 761 : AIR 1964 SC 828 : (1964) 1 Cri LJ 705]. This view has been reiterated in subsequent cases also.

(emphasis supplied)

38. **We are in agreement with the observations of this Court in *Balbir Singh v. State of Haryana, (1987) 1 SCC 533*, as emphasized in the judgement of *Raj Kumar Karwal (supra)*, that where a statute contains stringent provisions, a higher degree of care and caution is cast upon the investigating authorities. The investigation, therefore, must be thorough and be conducted with great circumspection. In light of the above discussion, nothing further is required to be stated on the said issue.**

INVOCATION OF OFFENCES UNDER THE INDIAN PENAL CODE

39. **Insofar as the issue pertaining to invocation of offences punishable under Sections 284 and 289 of the IPC is concerned, the said offences are cognizable and bailable in nature. The marginal note of Section 284 of the IPC defines "negligent conduct with respect to poisonous substance". On the other hand, Section 289 of the IPC pertains to "negligent conduct with respect to any animal".**

40. **It is noted that an earlier complaint was registered on the same issue under Section 156(3) of the Cr.P.C. by one Mr. Saurabh Gupta, who is the brother of the complainant in the present case. Mr. Saurabh Gupta has also been cited as PW-3 by the prosecution in the instant case. In**

the earlier complaint, a closure report was filed on 21.11.2024, noting that cognizable offences could not be established, as no cruelty was meted out to the snakes. Further, it was stated that possession and usage of all the exotic species would not constitute an offence. Since, the said issue was the subject matter of an earlier complaint, as stated above, the same cannot form part of the present criminal proceedings initiated *qua* the appellant, that too by a different agency not having jurisdiction. The apparent connection between the complainant/informant in both the cases also cannot be brushed aside.

41. **In a recent judgment of this Court in *B.N. John v. State of U.P.*, 2025 SCC OnLine SC 7, this Court had quashed the criminal proceedings, due to cognizance having been taken incorrectly by the jurisdictional Magistrate. It has been held as under:**

> **"36. What is evident from the records is that the police entertained the FIR under Section 353 of the IPC and investigated the same by conferring jurisdiction upon itself as if it was a cognizable offence as provided under Section 156 of the CrPC, when commission of any cognizable offence was not made out in the FIR, which is not**

permissible in law. The police added Section 186 of the IPC later, and the CJM, Varanasi, took cognizance of the offence of Section 186 of the IPC along with Section 353 of the IPC when no complaint was made by any public servant to the CJM or any court as required under Section 195(1) of the CrPC.

37. We are mindful of the position that where, during the investigation of a cognizable or non-cognizable offence on the basis of an FIR lodged, new facts emerge that will constitute the commission of a non-cognizable offence under IPC, in which event, the police can continue with the investigation of the non-cognizable offence of which there cannot be any dispute.

Thus, even if it is assumed that in the course of the investigation of a cognizable offence, the ingredients of a non-cognizable offence are discovered then the police could have continued the investigation without the written complaint to the court or the order of the court in respect of such non-cognizable offence, as it would also be deemed to be a cognizable offence under Section 155(4) of the CrPC, but where the investigation of the cognizable office itself suffers from legal infirmity and without jurisdiction from the initial stage, the entire investigation would be vitiated. For this reason, the police cannot seek the shield under Section 155 (4) of the CrPC when the

FIR did not disclose the commission of a cognizable offence."

(emphasis supplied)

42. **Hence, we would like to reiterate that once a power is exercised without jurisdiction, it is void *ab initio*, and any subsequent action or proceedings which stems from it, would likewise be rendered void.**

43. **In view of the aforesaid circumstances, we are not inclined to delve into the other facts and issues which have been raised before us in the present appeal.**

CONCLUSION

44. **For the reasons discussed above, we are convinced that the appellant has been able to establish that the FIR and the criminal proceedings pending against him before the concerned Trial Court in the present case, cannot be sustained in the eyes of law.**

45. **Accordingly, the impugned order dated 12.05.2025 passed by the High Court of Judicature at Allahabad in Application Under Section 528 BNSS No. 14438/2025 stands set aside.**

46. **Consequently, the criminal proceedings arising out of FIR No. 461/2023 registered at P.S. Noida, District – Gautam Buddha Nagar, Uttar Pradesh**

dated 03.11.2023 and Chargesheet No. 1/2024 dated 05.04.2024 for the offences punishable under Sections 120-B, 284 and 289 of the IPC along with Sections 9, 39, 48-A, 49, 50 and 51 of the 1972 Act and Sections 8, 22, 29, 30 and 32 of the NDPS Act, 1985 stand quashed.

47. **However, we are also conscious of the facts of the present case and do not wish to leave any issue open at this stage, particularly, when we have not gone into the merits of the other facts which have been raised before us.**

48. **In such view of the matter, we give liberty to the Competent Authorities under Section 55 of the 1972 Act to press into service the said provision and take appropriate measures against the appellant, if so advised, taking note of the facts which have arisen in the present case.**

49. **Accordingly, the appeal stands disposed of, with the aforesaid liberty.**

50. **Pending application(s), if any, shall also stand disposed of.**

.....J.
[M.M. SUNDRESH]

.....J.
[NONGMEIKAPAM KOTISWAR SINGH]

NEW DELHI;
MARCH 19, 2026