

Public Gambling Act, 1867, S. 5 – Investigation in a non-cognizable offence at the hands of the police without permission of the competent Magistrate is impermissible – Offences which are non-cognizable are not permitted to be investigated without the order of the Magistrate, who was having the power to try such cases or commit the case for trial – For the search of a house a pre-requisite is that, upon receipt of credible information, the officer invested...

For the search of a house under the Public Gambling Act, 1867, under Section 5 a pre-requisite is that, upon receipt of credible information, the officer invested with power of Magistrate or District Superintendent of Police after conducting enquiry may either himself or by warrant authorise any other police officer to enter and search the place – No order passed by a Magistrate to investigate the non-cognizable offence as required under Section 155(2) Cr.P.C. – The procedural infirmity goes to the root of the matter – Raid leading to lodging of FIR itself was from the threshold marred by procedural irregularity – Same is a ground sufficient to quash the FIR – Non-cognizable offence.

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