

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Writ Petition(Crl.) No. 49/2003( For Preliminary Hearing )

LIYAQAT ALI

Petitioner (s)

VERSUS

UNION OF INDIA AND ORS.

Respondent (s)

Date : 02/05/2003 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.N. VARIAVA

HON'BLE MR. JUSTICE B.N. AGRAWAL

For Petitioner (s)

Mr. D.K.Garg, Adv.  
Mr. R.C.Kaushik, Adv.

For Respondent (s)

UPON hearing counsel the Court made the following  
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This writ petition, under Article 32 of the Constitution of India, is filed on the basis that in respect of Section 50 of the Narcotic Drugs and Psychotropic Substances Act, 1985 there is a conflict of decision between the case of Namdi Francis Nwazor vs. Union of India (1998)@@  
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8 SCC 534 and the cases of Sarjudas and Anr. vs. State of@@  
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Gujarat reported in (1999) 8 SCC 508 and State of Punjab vs.@@  
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Baldev Singh reported in (1999) 6 SCC 172. In our view@@  
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there is no conflict. Law on the subject is very clear and  
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it is as laid down in the cases of Sarjudas And Anr. vs.@@  
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State of Gujarat reported in (1999) 8 SCC 508 and State of@@  
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Punjab vs. Baldev Singh reported in (1999) 6 SCC 172. In@@  
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the case of Namdi Francis Nwazor, the question whether

Section 50 would be applicable if the seizure is from a bag carried by the person did not arise at all. In that case the seized articles were brought from some other place to the place where search took place and then it was held that Section 50 did not apply. The question whether Section 50 would apply if the search and seizure are from a bag being carried by the accused did not arise for consideration. The observations relied upon are mere passing observations which are per-incuriam. Therefore, the law is as set out in the other two judgments.

This petition is disposed of with this clarification.

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Anita

(Asha Joshi)  
Court Master