



2026:AHC:59164

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 1961 of 2026

Hasrat Ali And Another

.....Revisionist(s)

Versus

State Of Up And 2 Others

.....Opposite
Party(s)

Counsel for Revisionist(s)	:	Tarun Kumar Srivastava
Counsel for Opposite Party(s)	:	G.A.

Court No. - 86

HON'BLE SUBHASH CHANDRA SHARMA, J.

Heard learned counsel for the revisionists as well as learned A.G.A. for the State and perused the material on record.

The criminal revision has been filed with prayer to allow the instant revision and set aside the judgment and order dated 17.12.2025 passed by the court of learned Additional Chief Judicial Magistrate, Court No.1, Fatehpur in Case No.351 of 2014 (State vs. Hasrat Ali and another) arising out of Case Crime No.105 of 2013, under Section 3/7 of E.C. Act, Police Station Ghazipur, District Fatehpur, whereby the discharge application of the revisionists under Section 239 of the Cr.P.C. has been rejected, pending in the court of learned Additional Chief Judicial Magistrate, Court No.1.

It is submitted by learned counsel for the revisionists that in this case the F.I.R. was lodged against the revisionists with false allegations by Regional Food Officer under Section 3/7 E.C. Act stating that the revisionist sold 95 liters of kerosene oil at the rate of Rs.35/- liter to Lotan who was operating the floor and oil mill by using kerosene oil in the place of diesel in the engine. Further submits that in pursuance to the registration of F.I.R. the investigation was led by S.I. Daya Shankar Tripathi and after recording the statements of witnesses charge sheet was filed on the basis of which cognizance was taken. He also submits that the I.O. did not investigate the matter and collected the material in proper manner but it was faulty. He also submits that his license of kerosene oil shop was cancelled by the authority by order dated 22.08.2013 regarding which he has filed a Writ No.50265 of 2013 before this Court which was allowed by order dated 24.03.2014 as a

result his license was revived. He moved application for discharge u/s 239 Cr.P.C. before the learned trial court with the plea that his license was cancelled by the concerned authority illegally without giving an opportunity of hearing to him and the cancellation of license was held to be illegal by this Court as a result it was restored, therefore, no prima facie case can be said to be made out against the revisionist as a result charge cannot be framed and he has filed discharge but learned trial court without considering all these facts and the fact of revival of his license did not discharge but it has passed the order in question dated 17.12.2025 which cannot be said to be lawful, therefore, request to set aside it and allow the revision.

Learned A.G.A. opposed the prayer as aforesaid and contended that only on the basis of the fact that the order of cancellation of license being revived by the authority concerned, it cannot be said that the allegation made in F.I.R. and the material collected during the course of investigation by the I.O. supporting such allegation is totally false and the plea of discharge of the accused is to be considered on the basis of allegation against him and material in support thereof as collected by the I.O. during the course of investigation. The issue of cancellation of license and its revival is different and on that basis only the whole prosecution case cannot be said to be false at the stage of framing of charge. The learned trial court passed the order in question on the basis of material collected during the course of investigation by the I.O. and also considered the fact of cancellation of license and its revival then passed the order in question. There is no any illegality or impropriety in the order passed by the learned trial court.

Considering the facts and circumstances of the case, submissions made by learned counsel for the revisionist as well as learned A.G.A. and the order passed by learned trial court, it appears that the Regional Food Officer lodged an F.I.R. against the revisionist for selling kerosene oil to Lotan who was using the kerosene oil in his floor and oil mill engine on the place of diesel when kerosene was not meant for operating the engine on the place of diesel. The revisionist sold the kerosene oil measuring 95 liters at the rate of Rs.35 per liter against the control order violating the provisions of E.C. Act and amounting to an offence u/s 3/7 E.C. Act. Proper seizure memo was prepared by the authority at the time of alleged incident prior to lodging of the F.I.R. During the course of investigation the I.O. recorded the statement of the informant and other witnesses and then charge sheet was filed against him. In the meantime, the license of the shop of kerosene oil was also

cancelled by the authority concerned prior service of notice on him that was the reason it was challenged before this court in writ petition which was allowed and order of cancellation of license was revived. At the stage of framing of charge/discharge u/s 239 Cr.P.C. only on the basis of revival of license, it cannot be said that the prosecution version is totally false since the fact of cancellation or revival is not in issue in this criminal case. At the stage of framing of charge the court is to examine the material collected during the course of investigation with a view that if it is taken on its face value and disclosed the ingredients constituting the alleged offence and at this stage the court is not expected to go deep into the matter for the conviction. While viewing the plea of discharge court is also not permitted to appreciate the evidence and act as an appellate court. At this stage the truthfulness and reliance of the statements of the witnesses and material collected during the course of investigation can also not be decided. In the order passed by learned trial court dated 17.12.2025, there appears no such illegality or impropriety to invite interference by this Court in this criminal revision.

Accordingly, this criminal revision being devoid of merit is ***dismissed*** at the admission stage itself.

March 23, 2026
Ashok Gupta

(Subhash Chandra Sharma,J.)