



2026:AHC:65483

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 2854 of 2025

Ajay Kumar Singh

.....Revisionist(s)

Versus

State Of U.P. And 3 Others

.....Opposite Party(s)

Counsel for Revisionist(s)	:	Dr. Rajesh Kumar Srivastav
Counsel for Opposite Party(s)	:	G.A.

Court No. - 53

HON'BLE ABDUL SHAHID, J.

1. Heard learned counsel for the revisionist and the learned AGA for the State.
2. The instant criminal revision has been filed by the revisionist being aggrieved by the impugned order dated 20.7.2024, passed by the Special Chief Judicial Magistrate, Meerut in Criminal Case No. 8550 of 2020 (State Vs. Surendra Singh and others), arising out of case crime No. 347 of 2017, under Section 417, 465, 468, 471 and 120B IPC, Police Station Sadar Bazar, District Meerut, whereby the discharge application of the revisionist has been rejected.
3. Brief facts of the case is that an FIR was lodged by the opposite party no.4/first informant under Sections 417, 465, 468, 471 and 120B IPC, Police Station Sadar Bazar, District Meerut. In the said FIR, the revisionist was not named in the FIR and his name was first time surfaced during investigation in the statement of co-accused and, thereafter, charge sheet was also filed against the revisionist.
4. Learned counsel for the revisionist has submitted that from perusal of the first information report which is based on a detailed preliminary enquiry conducted by the CBCID, it has been made very clear by the enquiry officer as well as the opposite party no.4 that who were official involved in the instant case, neither name of the revisionist is mentioned in the first information report nor any overt act or omission has been attributed to him. The revisionist was posted at the relevant time on the post of Senior Assistant and no recommendation was made by him for creation of the post in question and neither any document was submitted by him and was fully innocent in the matter.
5. Learned counsel for the revisionist has further submitted that during detailed preliminary enquiry conducted by the CBCID, not even a suspicion has been raised with regard to the involvement of the revisionist in the instant case, despite that the learned trial court has failed to discharge the revisionist. Learned counsel for the revisionist has also submitted that no proximity has been revealed between the

revisionist and other named co-accused to the extend the culpability of the offences as his name is not mentioned in the array of accused persons in the FIR. He further stated that it has been affirmed during preliminary enquiry conducted that the revisionist was in no manner related to other co-accused person in the instant case.

6. Learned counsel for the revisionist has vehemently argued that there has been complete non application of mind on the part of the sanctioning authority for the prosecution of the revisionist as there is no evidence for proving the revisionist complicity in the instant case and the evidence is too weak and fragile to stand the test of reason. He further submitted that the sanctioning authority for prosecution has failed to appreciate that nothing has been alleged against the revisionist and understandably do not form a chain of evidence so complete as to unerringly point towards the guilt of the revisionist.

7. Learned counsel appearing for the revisionist has argued that for the same set of charges, for which the criminal trial is continuing against the revisionist, he was subjected to the disciplinary proceedings and the said disciplinary proceedings have been dropped for the reason that no evidence was found against the revisionist regarding his involvement in the matter as alleged. The revisionist has been exonerated in the disciplinary proceedings initiated against him.

8. Learned counsel for the revisionist has further argued that it is well settled proposition of law that if for the same set of charges, the disciplinary proceedings have been carried out and that the accused had been found innocent, then for the same charges, the criminal trial cannot be allowed to continue as for proving charges in the criminal trial, the standard of proof is at much higher pedestal than standard of proof required in the disciplinary proceedings as in the disciplinary proceedings charges are proved on preponderance of probability.

9. Learned counsel for the revisionist has submitted that the revisionist has falsely been implicated in the said offence. He was not named in the first information report. Learned counsel for the revisionist has further submitted that the disciplinary enquiry was initiated against the revisionist, in which the Disciplinary Authority has found no role of the revisionist and, therefore, the revisionist was exonerated from the charges levelled on him.

10. Learned counsel for the revisionist has also submitted that the charges levelled on the revisionist has been admitted by another person, against whom the trial is going on. The revisionist without any material against him is not entitled to face trial which is illegal. Therefore, he is entitled to be discharged.

11. Learned AGA appearing for the State has opposed the revision and argued that the impugned order has been rightly passed by the learned trial court and, therefore, the revision is liable to be dismissed.

12. The Supreme Court in **Sanjay Kumar Rai Vs. State of U.P. and another; 2022 (5) SCC 720 by Three Judges Bench**, (authored by Hon. Surya Kant, J) held as under:-

"12. At the outset, we may note that the High Court has dismissed the Criminal Revision on the ground of lack of jurisdiction under section 397 of Cr.P.C. The High Court did not examine the issue in detail to find out whether the continuation of proceedings will amount to abuse of process of law in this case. The impugned order cites the decision of this Court in Asian Resurfacing (supra) wherein it was noted as under:

"Thus, we declare the law to be that order framing charge is not purely an interlocutory order nor a final order. Jurisdiction of the High Court is not barred irrespective of the label of a petition, be it under Sections 397 or 482 Cr.P.C. or Article 227 of the Constitution. However, the said jurisdiction is to be exercised consistent with the legislative policy to ensure expeditious disposal of a trial without the same being in any manner hampered. Thus considered, the challenge to an order of charge should be entertained in a rarest of rare case only to correct a patent error of jurisdiction and not to re- appreciate the matter."

13. It appears to us that while limiting the scope of a criminal revision to jurisdictional errors alone, the High Court apparently underappreciated the Judgment in Asian Resurfacing (supra). We say so at least for two reasons. First, the material facts in the abovesaid case dealt with a challenge to the charges framed under the Prevention of Corruption Act, 1988 ("POCA"). The cited judgment itself enlightens that not only is POCA a special legislation, but also contains a specific bar under Section 19 against routine exercise of revisional jurisdiction. Second, This Court in Asian Resurfacing (Supra) while expressing concern regarding the need to tackle rampant pendency and delays in our criminal law system, followed the ratio laid down in an earlier decision in Madhu Limaye V. State of Maharashtra as can be seen from the following extract: "27. Thus, even though in dealing with different situations, seemingly conflicting observations may have been made while holding that the order framing charge was interlocutory order and was not liable to be interfered with under Section 397(2) or even under Section 482 CrPC, the principle laid down in Madhu Limaye [Madhu Limaye V. State of Maharashtra, (1977) 4 SCC 551: 1978 SCC (Cri) 10] still holds the field. Order framing charge may not be held to be purely an interlocutory order and can in a given situation be interfered with under Section 397(2) CrPC or 482 Cr.P.C. or Article 227 of the Constitution which is a constitutional provision but the power of the High Court to interfere with an order framing charge and to grant stay is to be exercised only in a exceptional situation."

14. In Madhu Limaye (supra), this Court authoritatively held: "9? Sometimes the revisional jurisdiction of the High Court has also been resorted to for the same kind of relief by challenging the order taking cognizance or issuing processes or framing

charge on the grounds that the Court had no jurisdiction to take cognizance and proceed with the trial, that the issuance of process was wholly illegal or void, or that no charge could be framed as no offence was made out on the allegations made or the evidence adduced in Court.. 10. ? Even assuming, although we shall presently show that it is not so, that in such a case an order of the Court taking cognizance or issuing processes is an interlocutory order, does it stand to reason to say that inherent power of the High Court cannot be exercised for stopping the criminal proceeding as early as possible, instead of harassing the accused up to the end? The answer is obvious that the bar will not operate to prevent the abuse of the process of the Court and/or to secure the ends of justice. The label of the petition filed by an aggrieved party is immaterial. 15. The correct position of law as laid down in Madhu Limaye (supra), thus, is that orders framing charges or refusing discharge are neither interlocutory nor final in nature and are therefore not affected by the bar of Section 397 (2) of CrPC. That apart, this Court in the abovesaid cases has unequivocally acknowledged that the High Court is imbued with inherent jurisdiction to prevent abuse of process or to secure ends of justice having regard to the facts and circumstance of individual cases. As a caveat it may be stated that the High Court, while exercising its aforesaid jurisdiction ought to be circumspect. The discretion vested in the High Court is to be invoked carefully and judiciously for effective and timely administration of criminal justice system. This Court, nonetheless, does not recommend a complete hands off approach. Albeit, there should be interference, may be, in exceptional cases, failing which there is likelihood of serious prejudice to the rights of a citizen. For example, when the contents of a complaint or the other purported material on record is a brazen attempt to persecute an innocent person, it becomes imperative upon the Court to prevent the abuse of process of law. 16. Further, it is well settled that the trial court while considering the discharge application is not to act as a mere post office. The Court has to sift through the evidence in order to find out whether there are sufficient grounds to try the suspect. The court has to consider the broad probabilities, total effect of evidence and documents produced and the basic infirmities appearing in the case and so on. [Union of India V. Prafulla Kumar Samal].Likewise, the Court has sufficient discretion to order further investigation in appropriate cases, if need be. It is also held that discharge is a valuable right provided to the accused."

13. It is held by the Supreme Court in **Urmila Devi and others Vs. Balram and another; 2025 SCC Online 1574** that the court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution.

14. It is settled legal position that on the basis of above stated judicial pronouncement and also in view of statutory provisions of Sections 25, 26 and 30 of Evidence Act that the confession of a co-accused is not a valid piece of evidence which can be used against the accused in a criminal trial. The position of extra judicial confession made before some person other than a police officer will hold different field. Similar is the

position with a confession made before a Magistrate and it may also be taken into consideration against a co-accused, but in present case, the name of the revisionist has come in the statement of co-accused and no other evidence could be pointed out by the prosecution against the revisionist. Therefore, a case of discharge from charge levelled against the revisionist is made out in the present case and the revisionist deserves to be discharged from the charge.

15. The Supreme Court in **Radhey Shyam Kejriwal Vs. State of West Bengal; (2011) 3 SCC 581** held in paragraph no. 22 that a learned Single Judge of the Bombay High Court had the occasion to consider this question in a case under the Foreign Exchange Regulation Act in Hemendra M. Kothari Vs. Enforcement Directorate (FERA), decided on 25.04.2007 and on a review of large number of decisions of this Court and other courts it came to the following conclusion :-

"21. It may be noted that in the present case the applicant was exonerated by the Dy. Director of Enforcement, who was adjudicating authority, in the adjudication proceedings. Admittedly that order was not challenged in appeal by the respondent and thus that order has become final. I have already noted the facts and findings of the adjudicating authority in detail. The adjudicating authority had clearly come to the conclusion that there was no material to hold the present applicant guilty for contravention of the provisions of FERA and he was completely exonerated. When in the departmental proceedings before the adjudicating authority, the department could not establish the charges, it is difficult to imagine how the department could prove the same charges before the criminal Court when the standard of proof may be much higher and stringent than the standard of proof required in departmental proceedings."

16. The Delhi High Court also considered this question arising out of a case under [Foreign Exchange Regulation Act](#), in detail in the case of **Sunil Gulati & Anr. Vs. R.K. Vohra (2007) 145 DLT 612**, and held as follows :-

"25. 4. In case of converse situation namely where the accused persons are exonerated by the competent authorities/Tribunal in adjudication proceedings, one will have to see the reasons for such exoneration to determine whether these criminal proceedings should still continue. If the exoneration in departmental adjudication is on technical ground or by giving benefit of doubt and not on merits or the adjudication proceedings were on different facts, it would have no bearing on criminal proceedings. If, on the other hand, the exoneration in the adjudication proceedings is on merits and the concerned person(s) is/are innocent, and the criminal prosecution is also on the same set of facts and circumstances, the criminal prosecution cannot be allowed to continue. The reason is obvious criminal complaint is filed by the departmental authorities alleging

violation/contravention of the provisions of the Act on the part of the accused persons. However, if the departmental authorities themselves, in adjudication proceedings, record a categorical and unambiguous finding that there is no such contravention of the provisions of the Act, it would be unjust for such departmental authorities to continue with the criminal complaint and say that there is sufficient evidence to foist the accused persons with criminal liability when it is stated in the departmental proceedings that *ex facie* there is no such violation. The yardstick would, therefore, be to see as to whether charges in the departmental proceedings as well as criminal complaint are identical and the exoneration of the concerned person in the departmental proceedings is on merits holding that there is no contravention of the provisions of any Act."

17. In the said matter, an enquiry was conducted by the competent authority, which submitted its report dated 13.10.2020. The said report is annexed as **Annexure-2** to this revision. It is held in the last line of paragraph 6 of the enquiry report that it has been clearly established that the cutting made against Serial No. 3503 in the dispatch register of Establishment Section-2 was neither done by the Dispatcher, Ms. Manju Srivastava, nor by the Assistant Clerk, Mr. Ajay Kumar Singh. Furthermore, the name of Guru Prasad was neither struck off nor replaced with the name of Mr. Ajay Kumar Singh by the Office Superintendent, Mr. Jwala Prasad, nor was it done by the Assistant Clerk, Mr. Ajay Kumar Singh.

18. After considering all these facts and evidence, and the law laid down by the Hon'ble Supreme Court in *Radhey Shyam Kejriwal (Supra)*, the very basis of the criminal case against the revisionist, Ajay Kumar Singh, does not appear to be made out. He has been completely exonerated in the departmental proceedings, and Shri Jwala Prasad has been found to be the responsible person.

19. It has been held in **Hemendra M. Kothari (Supra)** that when, in departmental proceedings before the adjudicating authority, the department could not establish the charges, it is difficult to imagine how the department could prove the same charges before the criminal court, particularly when the standard of proof required in criminal proceedings is much higher and more stringent than in departmental proceedings.

20. In view of the law laid down in **Sunil Gulati (Supra)**, where exoneration in departmental proceedings is on merits and the concerned person is found innocent, and the criminal prosecution is based on the same set of facts and circumstances, the criminal prosecution cannot be allowed to continue. Both these views have been duly endorsed by the Hon'ble Supreme Court in **Radhey Shyam Kejriwal (Supra)**.

21. The revisionist, Ajay Kumar Singh, having been duly exonerated in the adjudication proceedings on merits and having been found innocent, it would not be justifiable to allow the criminal prosecution to continue against him on the same set of

facts and circumstances.

22. The criminal prosecution of the revisionist/Ajay Kumar Singh cannot be allowed to continue. Hence, the impugned order dated 20.7.2024, passed by the learned Special Chief Judicial Magistrate, Meerut in Criminal Case No. 8550 of 2020 (State Vs. Surendra Singh and others), arising out of case crime No. 347 of 2017, under Section 417, 465, 468, 471 and 120B IPC, Police Station Sadar Bazar, District Meerut, is hereby set aside and the revisionist/Ajay Kumar Singh is hereby discharged.

23. Consequently, the present criminal revision is allowed for the reasons mentioned hereinabove.

March 30, 2026
sfa/

(Abdul Shahid,J.)