

Ajay Kumar vs State Of U.P. And Another on 1 April, 2025

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Neutral Citation No. - 2025:AHC:44527

Court No. - 82

Case :- CRIMINAL REVISION No. - 1426 of 2025

Revisionist :- Ajay Kumar

Opposite Party :- State of U.P. and Another

Counsel for Revisionist :- Om Narayan Dwivedi, Tryambak Nath Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Manjive Shukla, J.

1. Heard Sri Om Narayan Dwivedi, learned counsel appearing for the revisionist and learned Additional Government Advocate appearing for the State.
2. The instant criminal revision has been filed challenging therein, the order dated 24.2.2025 passed by the learned Additional Sessions Judge/ Special Judge (M.P./M.L.A.) Prayagraj in Sessions Trial No. 155 of 2025 (State Vs. Rahul Singh) whereby, the application filed by the revisionist under Section 239 Cr.P.C. for his discharge from the offences punishable under Sections 41, 411, 413, 419, 420, 467, 468 and 471 I.P.C. had been rejected.
3. It has been contended on behalf of the revisionist that the vehicle bearing Registration No. WB-26S5953 was standing in the Police Station Kotwali Prayagraj on 9.4.2023 and the videos of the said vehicle were viral on social media platforms. It has further been contended that the police had shown recovery of the aforesaid vehicle on 10.4.2023 and further had shown that the revisionist and one Mr. Rahul Singh were arrested along with the said vehicle.
4. Learned counsel appearing for the revisionist has argued that once there are videos which were viral on social media platforms showing that the vehicle in question bearing Registration No. WB-26S5953 was standing in the police station concerned on 9.4.2023, there cannot be any

6. Learned Additional Government Advocate appearing for the State has vehemently argued that the Investigating Officer, after collecting the sufficient evidence against the revisionist, had already filed charge-sheet before the competent court and therefore, unless the revisionist is able to show that there is no evidence against him, his application for discharge filed under Section 239 Cr.P.C. cannot be allowed. He has further submitted that it is well settled proposition of law that in the matter of discharge under Section 239 Cr.P.C., a limited scope is available with the court i.e. the court can discharge the accused only when it is a case of no evidence, whereas in the present case, sufficient evidence is available on record and the revisionist along with Rahul Singh have been arrested with the vehicle and it has been found that the chasis of the said vehicle had been tampered and its registration number was fake therefore, there is no occasion for the trial court to discharge the revisionist from the offences in question and the application, filed by the revisionist under Section 239 Cr.P.C., had rightly been rejected.

8. Before proceedings in the matter, it is appropriate to look into the contents of the F.I.R. registered in the matter. For ready reference the FIR is extracted as under:

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9. From perusal of the contents of the F.I.R., it is crystal clear that at the time of recovery of the vehicle and the arrest of the revisionist and Rahul Singh, there was number plate on the vehicle showing its registration number of the State of West Bengal as WB-26S5953. When the said registration number was checked by the police on the official Website of the department of transport, it was found that the said registration number is of the State of West Bengal and for that registration number, the owner of the vehicle is Rajiv Roshan and his mobile number is 9232325332. Mr. Rajiv Roshan, on being contacted on his said mobile number, responded that his vehicle is standing in his house. Thereafter, the police checked the vehicle in question and found that its chasis had been tampered and it was having number plate of fake registration number. The police after investigation had collected the material evidence against the revisionist, Rahul Singh and Vishvajeet Singh and had filed Charge Sheet before the competent court of law. The court had already taken cognizance on the Charge Sheet.

10. This Court finds that so far as, the story narrated by the revisionist in his application filed under Section 239 Cr.P.C. and the grounds raised in this criminal revision, are concerned, it is his defence and it can only be appreciated when the revisionist participates in the trial and leads the evidence before the trial court. At the stage of complete discharge from the offence under Section 239 Cr.P.C., the scope of consideration of the evidence by the trial court is very limited and at that stage, trial court cannot appreciate the defence evidence of the accused and further on that basis, accused cannot be discharged. The stage of appreciating and deciding the defence evidence would come later in the trial and only then the defence evidence can be considered by the trial court.

11. Considering the arguments advanced by the learned counsel appearing for the revisionist and learned Additional Government Advocate appearing for the State, this Court is of the opinion that the Investigating Officer, after collecting the sufficient evidence, had filed charge sheet. The trial

court had already taken cognizance in the matter therefore, at this stage, the trial court cannot scrutinize and appreciate the defence evidence of the accused that the vehicle-in-question was standing in the police station concerned, one day before the date of its recovery. The proper stage for appreciation of the said evidence would come later when the revisionist would lead his defence evidence before the trial court.

12. From the facts and circumstances of the case, it is apparent that the trial court, while rejecting the application filed by the revisionist under Section 239 Cr.P.C., has not committed any error.

13. Accordingly, this criminal revision lacks merit and is hereby dismissed.

14. It is made clear that any observation made in this order would not adversely affect the rights of the revisionist in the pending trial.

Order Date :- 1.4.2025 Gss