

Ramanand Nishad vs State Of U.P. And Another on 17 November, 2022

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 91

Case :- CRIMINAL REVISION No. - 647 of 2022

Revisionist :- Ramanand Nishad

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

Counsel for Revisionist :- Arvind Kumar Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Jyotsna Sharma,J.

01. Heard Sri Arvind Kumar Yadav, learned counsel for the revisionist and learned A.G.A. for the State-respondent no.1.

02. This criminal revision has been filed challenging the order dated 12.10.2021 passed by Additional Sessions Judge/FTC II, Jaunpur in S.T. No.337 of 2016, State vs. Ramanand Nishad arising out of case crime no.588 of 2013, under Sections 272 I.P.C. 60 Excise Act, P.S. Sarpataha, District Jaunpur by which application under Section 227 Cr.P.C. of the accused was dismissed and the case was posted for framing of charges.

03. Facts relevant for disposal of this revision as revealed from papers on record are as below:-

04. On the basis of recovery memo alleging recovery of illicit and adulterated liquor from the possession of the accused-revisionist an F.I.R. case crime no.588 of 2013, under Sections 272 I.P.C. 60 Excise Act was registered and investigated upon. The recovered liquor was sent for scientific testing and it tested positive for presence of urea as per report of the Forensic Science Laboratory, Varanasi. The accused was chargesheeted and matter came to the stage of framing of charge.

05. An application was moved on behalf of the accused saying that he was falsely implicated in the case on account of political enmity and that no case against him was made out as no intoxicant or adulteration was found. This application was dismissed.

06. It is contended before this Court that the chemical analysis report did not mention presence of any substance turning the liquor noxious. Therefore, prima facie, no offence under Section 272 I.P.C. is made out. It is also contended that police have no power to proceed under Section 272 I.P.C. as a matter at the most could be proceeded only under Food Safety and Standards Act, 2006

07. The chemical analysis report is on record, which discloses that some of the samples tested positive showing presence of urea which, in my view, falls in the category of adulterant turning the drink noxious. Hence contention of the revisionist in the regard appears to be groundless. Moreover there is no law which said that charge under IPC cannot be framed if the same is covered with any special act. Legally charge can be framed in alternative as well as in addition.

08. As per prosecution case, the accused was intercepted by police when he was carrying adulterated liquor. It is settled that at the stage of framing charge no roving enquiry is to be made and evidentiary value of the material available is not to be assessed deeper than required.

09. I find no fault in the impugned order dated 12.10.2021 passed by Additional Sessions Judge/FTC II, Jaunpur and do not find any ground to interfere in exercise of revisional powers of this Court.

10. The criminal revision is dismissed.

Order Date :- 17.11.2022 Asha