

Court No. - 80

Case :- CRIMINAL REVISION No. - 3669 of 2023

Revisionist :- Rishipal

Opposite Party :- State of U.P.

Counsel for Revisionist :- Ajay Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Chandra Sharma,J.

Heard learned counsel for the revisionist and learned A.G.A for the State and also perused the record.

The present criminal revision has been preferred with a prayer by the revisionist to set-aside the impugned order dated 30.06.2023 passed by Additional District and Sessions Judge, F.T.C. 2nd, Hapur, in S.T. No. 10 of 2018 (State Vs. Rishipal) arising out of case Crime No. 216 of 2017, under section 18/20 of N.D.P.S. Act, Police Station Babugarh, District Hapur and also this Hon'ble Court may graciously be pleased to remand the matter back to pass a fresh order by Additional District and Sessions Judge, F.T.C. 2nd, Hapur in S.T. No. 10 of 2018 (State Vs. Rishipal) arising out of case Crime No. 216 of 2017, under section 18/20 of N.D.P.S. Act, Police Station Babugarh, District Hapur .

Facts in brief are that the trial was being conducted by the learned Session Judge concerned. The report sent from FSL regarding examination of sample of recovered charas was filed in the Court. The sample having 50 grams was sent to the FSL and at the time of examination it was found to be 33 grams. Request was made to summon the scientist from FSL for examination regarding difference found in the quantity in the sample. That application was rejected by the learned court in view of the provisions as contained in section 293 Cr.P.C where the report of expert has been said to be admissible without examining the expert and also on the ground that case was fixed for argument and at that stage the application was moved only for lingering the trial, as a result the application was rejected.

It is submitted by learned counsel for the revisionist that in this case there was difference in the quantity said to be sent in sample for examination and the quantity which was found at the time of examination, therefore, request was made to summon the expert to examine him about the contents found in the sample and the cause of deficiency in quantity in the sample. The learned court concerned did not consider the request but rejected the application without considering the fact that the quantity in the sample said to be sent and found at the time of examination was different which creates doubt, so request to set aside the order as aforesaid.

Learned A.G.A opposed the prayer as aforesaid and urged that the expert only examined the contents sent by the Court to the F.S.L for examination in which it was found to be Charas and report was filed before the learned court and during

examination of witnesses it was proved in view of section 293 Cr.P.C. In this way there was no need of summoning the expert from FSL to prove the report about the difference in quantity said to be taken in sample and receipt in FSL. He may raise this issue before the learned trial court during the course of argument and the court will decide the issue in accordance with law. There is no any illegality or impropriety in the order passed by learned trial court but this criminal revision is devoid of merit and is liable to be dismissed.

Considering the facts and circumstances of the case, submission made by learned counsel for the revisionist, learned A.G.A and on perusal of record, the order passed by learned trial court and the provisions contained in section 293 Cr.P.C, there appears no illegality or impropriety in the order passed by the learned trial court, therefore, it does not require interference by this Court. This revision being devoid of merit is liable to be dismissed. As a result this revision is dismissed.

Order Date :- 13.10.2023

G.S