



2025:UHC:11352

Reserved on : 11.11.2025
Delivered on : 18.12.2025

IN THE HIGH COURT OF UTTARAKHAND

AT NAINITAL

Criminal Revision No.706 of 2024

Anil Kumar

.....Revisionist

Vs.

State of Uttarakhand

.....Respondent

Presence:

Mr. Aditya Singh, learned counsel for the Revisionist.

Mr. Vijay Khanduri, learned Brief holder for the State of Uttarakhand.

Hon'ble Ashish Naithani, J.

The present Criminal Revision has been preferred by the Revisionist- Anil Kumar, under Section 442 of the Bharatiya Nagarik Suraksha Sanhita, 2023, challenging the order dated 29.08.2024 passed by the learned Special Judge (Vigilance) and 1st Additional Sessions Judge, Dehradun, in S.S.T. No. 10 of 2020, whereby the discharge application, Paper No. 144-B, was rejected.

2. The case arises out of FIR No. 05 of 2020 registered at Police Station Vigilance Sector, Dehradun, under Section 7 of the Prevention of Corruption Act, 1988, read with Section 120-B IPC. The allegation is that on the intervening night of 14/15.02.2020, the Revisionist, while posted as State Tax Officer at Asharodi Check Post, Dehradun, intercepted Truck No. HR 39 C 7088.

3. It is alleged that the Revisionist demanded illegal gratification of ₹ 20,000/- from the driver of the said truck and, upon non-payment, forcibly took ₹ 9,500/- from him. It is further



alleged that an amount of ₹ 20,000/- was subsequently transferred through UPI into the account of the Revisionist via a co-accused.

4. Upon completion of the investigation, a charge sheet was submitted, and charges were framed against the Revisionist by the learned Special Judge (Vigilance). The Revisionist challenged the order framing charge by filing Criminal Revision No. 96 of 2022 before this Court, which came to be dismissed by order dated 17.02.2023.

5. Aggrieved by the order dated 17.02.2023, the Revisionist approached the Hon'ble Supreme Court by filing SLP (Criminal) No. 7072 of 2023. The Hon'ble Supreme Court, by order dated 28.06.2023, dismissed the SLP, while granting liberty to the Revisionist to file an application for discharge, with a specific direction that such application shall be considered on its own merits, uninfluenced by any observations contained in the earlier order.

6. Availing the liberty so granted, the Revisionist filed a discharge application, Paper No. 144-B, before the learned Special Judge (Vigilance). Along with the said application, the Revisionist placed reliance upon documents obtained under the Right to Information Act, including information relating to FASTag transactions, toll payments, and border tax, to contend that the alleged truck never travelled from Haryana to Asharodi Check Post on or around the date of the alleged incident.

7. The learned Special Judge (Vigilance), by the impugned order dated 29.08.2024, rejected the discharge application on the ground that the material relied upon by the Revisionist constituted



defence material, which could not be looked into at the stage of discharge.

8. Aggrieved by the rejection of the discharge application, the Revisionist has preferred the present Criminal Revision.

9. Learned counsel for the Revisionist submitted that the impugned order dated 29.08.2024 is vitiated by non-application of mind and is in direct breach of the liberty granted by the Hon'ble Supreme Court. It was contended that the learned Special Judge failed to examine the discharge application on its own merits, as mandated by the order dated 28.06.2023.

10. Learned counsel argued that the documents produced by the Revisionist are not private or self-serving documents, but are official records supplied by statutory authorities under the Right to Information Act, including FASTag data and information relating to toll and border tax payments.

11. It was submitted that the said documents clearly indicate that Truck No. HR 39 C 7088 never travelled from Hisar, Haryana, to Asharodi Check Post, Dehradun, either on the date of the alleged incident or within a proximate period. According to learned counsel, once the movement of the truck itself is demonstrably absent, the very foundation of the prosecution case stands eroded.

12. Learned counsel further contended that the rejection of the discharge application by mechanically branding the material as defence evidence renders the liberty granted by the Hon'ble Supreme Court illusory. It was argued that the trial court was duty-bound to examine whether the material placed by the Revisionist, if



taken at face value, discloses a situation where continuation of proceedings would amount to an abuse of process of law.

13. Per contra, learned counsel for the State opposed the revision and submitted that the law relating to discharge is well settled. It was contended that at the stage of framing of charge or discharge, the Court is required to confine itself to the material collected by the prosecution during investigation.

14. Learned AGA argued that the documents relied upon by the Revisionist form part of his defence and their authenticity, relevance, and evidentiary value can only be tested during trial. It was further submitted that allegations of demand and acceptance of illegal gratification raise disputed questions of fact which cannot be adjudicated at the pre-trial stage.

15. On the aforesaid premises, learned counsel for the State submitted that the learned Special Judge rightly rejected the discharge application and that no interference is warranted in the exercise of revisional jurisdiction.

16. Heard learned counsel for the Parties and perused the records.

17. This Court has heard learned counsel for the Revisionist and learned counsel appearing for the State, and has carefully perused the record, including the impugned order dated 29.08.2024 passed by the learned Special Judge (Vigilance) and 1st Additional Sessions Judge, Dehradun, and the discharge application filed by the Revisionist pursuant to liberty granted by the Hon'ble Supreme Court.



18. The scope of consideration in the present criminal revision is limited but well defined. This Court is not required to assess the truthfulness of the allegations or to evaluate the evidentiary strength of the prosecution case. The examination is confined to whether the learned Special Judge has exercised jurisdiction in a lawful, reasoned, and meaningful manner while deciding the discharge application.

19. It is undisputed that the discharge application in question was filed pursuant to a specific liberty granted by the Hon'ble Supreme Court, with a clear direction that such application be considered on its own merits, uninfluenced by earlier observations. The grant of such liberty necessarily required a fresh and independent application of mind by the trial court.

20. The discharge application filed by the Revisionist was founded on a focused and specific plea, namely, that the alleged truck did not reach the place of posting of the Revisionist on or around the date of the alleged incident. In support of this plea, reliance was placed on documents obtained from statutory authorities under the Right to Information Act, including records relating to vehicle movement and transactional details.

21. The impugned order, however, rejects the discharge application primarily on the ground that the material relied upon by the Revisionist constitutes defence material and therefore cannot be looked into at the stage of discharge. Beyond such classification, the order does not reflect any examination of the nature of the material, the context in which it was produced, or its bearing on the foundational allegations forming the basis of the prosecution.



22. While it is true that the court considering a discharge application is not expected to conduct a detailed enquiry or to weigh evidence, it is equally true that the exercise cannot be reduced to a mechanical exclusion of all material labelled as defence. Where a plea raised by the accused directly questions the very occurrence alleged by the prosecution, the court is required to demonstrate, at least at a threshold level, that such a plea has been considered and tested against the version of the prosecution.

23. In the present case, the impugned order does not indicate any such consideration. The reasoning stops at the categorisation of the material as defence evidence, without addressing whether, even on a prima facie plane, the contentions raised by the Revisionist warrant a closer examination in the context of discharge.

24. The liberty granted by the Hon'ble Supreme Court would lose its substantive content if the discharge application filed pursuant thereto is rejected without a meaningful engagement with the grounds raised. The trial court was required to reflect in its order that the discharge application was considered independently, on its own merits, and not merely as a reiteration of earlier unsuccessful challenges.

25. This Court is conscious that it cannot, in exercise of revisional jurisdiction, substitute its own view on the merits of the discharge application. However, where the impugned order discloses a failure to undertake the jurisdictional exercise mandated by the liberty granted by a superior court, interference becomes necessary to ensure procedural fairness.



26. The interference by this Court is not founded on any conclusion regarding the guilt or innocence of the Revisionist, nor on the acceptance of the defence put forth. It is confined to the manner in which the discharge application has been dealt with and the absence of a reasoned consideration of the core plea raised therein.

27. In these circumstances, this Court is of the considered opinion that the impugned order dated 29.08.2024 cannot be sustained and deserves to be set aside, with a direction to reconsider the discharge application afresh in accordance with law.

ORDER

The Criminal Revision is allowed.

The order dated 29.08.2024 passed by the learned Special Judge (Vigilance) and 1st Additional Sessions Judge, Dehradun, in S.S.T. No. 10 of 2020, rejecting the discharge application Paper No. 144-B, is hereby set aside.

The matter is remanded to the learned Special Judge (Vigilance) to reconsider the discharge application afresh, strictly in accordance with law, by passing a reasoned order after independently examining the grounds raised therein, uninfluenced by the earlier rejection.

(Ashish Naithani J.)