

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CRR-3567-2017

Date of decision:-14.3.2018

Ashok Kumar

...Petitioner

Versus

State of Haryana and another

...Respondents

CORAM: HON'BLE MR.JUSTICE H.S.MADAAN

Present: Mr.Sushil Kumar Verma, Advocate
for the petitioner.

Mr.Gaurav Bansal, AAG, Haryana.

H.S. MADAAN, J.

This revision petition is directed against the order dated 16.8.2017 passed by learned Additional Sessions Judge, Sirsa finding that prima-facie charge for offence under Sections 18-A/27B(ii)/18(c)/28 of Drug and Cosmetic Act was disclosed against the accused as well as charge-sheet of the even date for the said offences served upon the accused.

Briefly stated, facts of the case are that the petitioner is Proprietor of firm M/s Sonu Medicose situated inside the premises of Dr.Mohar Singh, Surgical Hospital, Dabwali Road, Sirsa; that on 29.7.2010, District Drugs Inspector, Sirsa heading a team visited Chemist shop of the petitioner and found four units of Whole Human Blood IP

there without any valid licence; that furthermore drugs marked with wording “surgeon samples not to be sold” and “physician samples not to be sold” were found meant for sale; that the petitioner could not produce any document authorizing him to store human blood and purchase record of drugs recovered from his premises; that a notice was served upon him, to which, he filed reply, which was not found to be satisfactory. Thereafter, Drug Control Officer, Sirsa presented a complaint against the accused in the Court of competent jurisdiction. It was assigned to learned Additional Sessions Judge, Sirsa, who framed formal charge against the accused, which left the petitioner/accused aggrieved and he has filed the present revision petition. Notice of the petition was issued to respondent - State, which put in appearance through counsel.

I have heard learned counsel for the parties besides going through the record.

The contention of learned counsel for the petitioner is that four units of whole human blood said to have been recovered from the chemist shop of the petitioner actually did not belong to him; that in fact the blood units were brought by relatives of indoor patients of hospital, which was required to be transfused upon the patients at the time of their operation and the same was delivered in the name of the patients by the blood banks on the medical prescription and undertaking given by Dr.Mohar Singh; that Dr.Mohar Singh had already supplied the entire medical record to the complainant and he has also given an undertaking that blood units were kept by him in the refrigerator of Sonu Medicose, which was to be transfused/given to the patients subsequently. As regards the samples having wording “surgeon samples not to be sold” and

“physician samples not to be sold”, it is contended that those did not belong to the petitioner and had been kept in shop of petitioner by Medical Representative of drug company to be handed over the same to Dr.Mohar Singh since at the relevant time of his visit, Dr.Mohar Singh was busy in operation theatre. The said Medical Representative has furnished affidavit in that regard. However, those documents were not taken into consideration by the trial Court.

Learned State counsel has contested these contentions stating that after being caught red handed, violated various provisions of Drugs and Cosmetic Act, the explanation now rendered by the petitioner is an afterthought and is devoid of merit.

The law is well settled that charge can be framed on the basis of strong suspicion even. However, sufficient material was available with the trial Court to frame formal charge against the accused. The explanation now rendered comes out to be an afterthought. However, the petitioner may prove the same in his defence. He can cross-examine the prosecution witnesses even in that regard.

Law is well settled that the revisional jurisdiction of this Court is quite limited. This Court is to interfere only if there is an illegality or infirmity apparent on the face of the judgment/order passed by a Court below or the same is perverse. Merely because another view in the matter is possible, no inference with such judgment is to be done.

In the present case, I do not find any such illegality or infirmity with the impugned order much less apparent on the face of it. The order is certainly not in violation of settled principles of criminal jurisprudence. I do not see any reason to upset the impugned order.

Resultantly, the revision petition stands dismissed.

Copy of the order be sent to the trial Court for information and necessary action.

14.3.2018
Brij

(H.S.MADAAN)
JUDGE

Whether reasoned/speaking : Yes/No

Whether reportable : Yes/No