

\$~38

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CRL.M.C. 4487/2016 and Crl.M.A.18769/2016 (stay)

VINISH GUPTA Petitioner

Through: Ms. Monica Kapoor, Advocate

versus

STATE (GOVT OF NCT OF DELHI) Respondent

Through: Mr. Akshai Malik, APP for the State
SI Ashish Sharma, PS Sadar Bazar.

CORAM:

HON'BLE MR. JUSTICE R.K.GAUBA

ORDER

% **31.07.2018**

By order dated 24.11.2015, the Metropolitan Magistrate found charge made out for offence punishable under Section 61/1/14 of the Punjab Excise Act against the petitioner. The said order was challenged in the court of Sessions by Criminal Revision Petition No.31/16 invoking its revisional jurisdiction.

The revisional court, by order dated 08.04.2016, found no merit in the challenge and, thus, affirmed the order to the effect that charge is made out, putting the petitioner on trial.

By the present petition moved under Section 482 of the Code of Criminal Procedure, 1973 (Cr.P.C.), yet another challenge is brought to the orders of the Magistrate as well as of the Sessions Court.

Against the above backdrop, question arose as to whether the petitioner having availed of the remedy of revision should be allowed to

have recourse to the petition at hand as a substitute for virtually a second revisional challenge or scrutiny which is clearly barred under Section 397 (3) Cr.P.C.

This Court in an almost similar fact-situation, taking note of the decisions of the Supreme Court reported as *Krishnan Vs. Krishnaveni*, (1997) 4 SCC 241; *Rajinder Prasad Vs. Bashir*, (2001) 8 SCC 522 and *Kailash Verma vs. Punjab State Civil Supplies Corporation & Anr.*, (2005) 2 SCC 571 and following similar view taken by a learned single Judge of this Court in *Surender Kumar Jain vs. State & Anr.*, ILR (2012) 3 Del 99 in absence of a special case being made has earlier declined to interfere by the ruling (dated 03.07.2018) in Crl.M.C. 164/2018 *Ajay Maini vs. The State Govt. of NCT of Delhi & Ors.* in exercise of extraordinary jurisdiction under Section 482 Cr.P.C.

There are no special circumstances made out in the case at hand for the revisional court's view to be disturbed.

The petition and the application filed therewith are dismissed.

R.K.GAUBA, J.

JULY 31, 2018/vk