

Court No. - 34

Case :- CRIMINAL REVISION No. - 2858 of 2007

Revisionist :- Union Of India Thru' Intelligence Officer

Opposite Party :- Sanjeev Chand Agarwal & Another

Counsel for Revisionist :- Sanjay Kumar Singh

Hon'ble Sudhir Agarwal,J.

1. Accused respondents are served as is verified by Chief Judicial Magistrate vide letter dated 30.10.2007 and they are represented through Shri R.P. Singh, whose name has also been shown in the cause list, but he has not chosen to appear before Court even in the revised list. Hence, this revision is being decided after hearing counsel for revisionist only.

2. By means of this revision under Section 397 read with Section 401 of Cr.P.C., revisionist i.e. Union of India through Intelligence Officer, Narcotics Control Bureau, Varanasi has challenged impugned judgment and order dated 13.07.2007 passed by learned Additional Sessions Judge, Court No. 10, Varanasi in Criminal Case No. 107 of 2003 (Union of India through Intelligence Officer Vs. Sanjeev Chand Agarwal and another) only to the extent by which application dated 28.02.2004 of opposite partes, has been allowed discharging them from charges under Sections 27A and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (hereinafter to referred as "the Act 1985").

3. It is contended that Court below has illegally discharged accused respondents from the offence under Sections 27-A and 29-A of Act, 1985 though there is ample evidence to constitute offences under Sections 27-A and 29-A of Act, 1985. Court below has found that implication of respondent accused under Sections 27-A and 29-A of Act, 1985 is only on the basis of statement with respect to Section 67 of Act, 1985 and no other evidence is on record. Court below has also

observed that it shows implication of accused (opposite parties no. 1 and 2) but there is no sufficient ground so as to institute a prosecution case. The aforesaid order was passed before parties could lead evidence. Once material is available to show implication of accused opposite parties, there was no justification for Court below to pass order discharging them from offence under Sections 27-A and 29-A of Act, 1985. In my opinion, findings recorded by Court below are illegal and cannot be sustained.

4. Revision is allowed. Impugned order is hereby set aside. Court below shall proceed with matter expeditiously in accordance with law.

Order Date :- 4.11.2016

LBY