

COURT NO.3

Criminal Revision no. 135 of 2002.

Trepan Singh

..Revisionist.

Vs.

State of Uttaranchal and others.

..Respondents.

Hon'ble Irshad Hussain J.

Heard Sri Rajendra Kotiyal, learned counsel for the revisionist and the learned A.G.A.

This is a revision petition against the impugned order dated 08.10.2002 by which the learned Magistrate took cognizance after rejecting the final report submitted by the police after investigation.

The order has been challenged mainly on the ground that earlier the learned Magistrate had accepted the final report after perusal of the material collected during the investigation and therefore, he could not have subsequently taken cognizance of the case on the basis of the similar material. It is evident from the record that the earlier order of the learned Magistrate was challenged under revision because the complainant was not given an opportunity to make a protest against the filing of the final report. The learned Sessions Judge in view thereof allowed the revision setting aside the order of accepting the final report and remanded the matter to the learned Magistrate to decide the matter afresh according to law. This is how the matter again came up before the learned Magistrate. Learned Magistrate then went through the material on record as collected during the investigation and found that there was prima facie evidence to summon the accused for the offences mentioned therein. There is absolutely no illegality in the impugned order passed by the learned Magistrate on the face of the facts of the case. The decision cited by

the learned counsel for the revisionist reported in AIR SC, 483, Kishore Kumar Chandani Vs. G.D. Mahrotra and others has no application to the facts of the present case.

The revision being without force is hereby dismissed.

(Irshad Hussain J.)

21.12.02./B.