

Court No. - 46

Case :- CRIMINAL REVISION No. - 702 of 1997

Revisionist :- Rangroot

Opposite Party :- State Of U.P.

Counsel for Revisionist :- A.Mullick

Counsel for Opposite Party :- Govt. Advocate

Hon'ble Vivek Kumar Birla,J.

List revised. No one is present on behalf of the revisionist to press this writ petition.

Present revision has been filed challenging the judgment and order dated 12.5.1997 passed in Criminal Appeal No. 47 of 1996, Rangroot Vs. State by the XIVth Additional District and Sessions Judge, Agra and the order dated 14.2.1996 passed in Crime No. 2355 of 1994, Nagar Swasth Adhikari Vs. Rangroot by the Chief Judicial Magistrate, Agra.

Perused the order-sheet which indicates that vide order dated 16.8. 2016 bailable warrants were issued through the Chief Judicial Magistrate, Agra against the revisionist returnable within six weeks. A report has been submitted to the effect that the accused has sold off his village house in the year 2004 and has shifted to Aligarh and his whereabouts are not known.

In view of the report and in view of the judgment under challenge I proceed to consider the merits of the criminal revision.

As per the prosecution story on 13.5.1981 at about 8.45 PM the revisionist was found selling milk by the Food Inspector and the sample was sent for chemical analysis to the Public Analyst Lab. Thereafter after obtaining sanction a complaint was filed and subsequently the sample was sent for re-chemical examination by the Central Analyst Lab. In the statement recorded under Section 313 Cr.P.C. the accused stated that he was not carrying milk for sale purposes and was taking the milk to one Mitthu Khan. The ground taken in the revision is that there was difference regarding percentage of fat and non-fat in the sample and the report of the Public Analyst Exhibit Ka VII and the report given by the Central Analyst Lab. According to Public Analyst report the fat contents was 3.9% and non-fat contents was 7.5% whereas as per the Central Analyst Lab report the fat was 2.8% and non-fat was 6.9%. According to the standards the fat contents should be 3.5% and the non-fat 8.5%. Submission appears to be that there was a delay of more than three and half years in submission of report of the Central Analyst Lab and therefore, the same cannot be believed and the findings recorded by the trial court as affirmed by the appellate court are patently contrary to law.

Per-contra, learned A.G.A. has supported the impugned judgment of conviction and dismissal of appeal.

From perusal of record I am satisfied that the report of the Central Analyst Lab was given after a gap of more than three and half years and therefore, in such huge gap of more than three and half years the sample might have deteriorated by lapse of time and no categorical reliance on the aforesaid can be placed. The additional fact in the present case appears to be that by

now the revisionist must be 80 years of age and his whereabouts are not known.

In the facts and circumstances of the case, I find force in the grounds taken in the revision.

Accordingly, the impugned the judgment and order dated 12.5.1997 passed in Criminal Appeal No. 47 of 1996, Rangroot Vs. State by the XIVth Additional District and Sessions Judge, Agra and the order dated 14.2.1996 passed in Crime No. 2355 of 1994, Nagar Swasth Adhikari Vs. Rangroot by the Chief Judicial Magistrate, Agra are set aside. The sureties are discharged.

This revision is allowed.

Office is directed to communicate this order to the court below by FAX within three weeks for necessary action.

Order Date :- 31.3.2018

p.s.