

(2010) 10 AHC CK 0089
In the Allahabad High Court
Case No : Criminal Revision No. 2621 of 2010

Arun Kumar Sharma alias Karu	Vs	APPELLANT
State of U.P. and Another		RESPONDENT

Date of Decision : 12-10-2010

Acts Referred:

Citation : (2011) 1 ACR 1047

Hon'ble Judges : Kant Tripathi, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Shri Kant Tripathi, J.—Heard learned Counsel for the revisionist and the learned A.G.A. and perused the record.

2. By way of this revision, the revisionist Arun Kumar Sharma alias Karu (the accused) has assailed the revisional court's order dated 7.6.2010 rendered in Criminal Revision No. 20 of 2009, Prem Narain Sharma v. State of U.P. and Anr. whereby the Additional Sessions Judge, Court No. VIII, Etawah quashed the discharge order dated 18.10.2008 passed by the Chief Judicial Magistrate, Etawah in Criminal Case No. 381 of 2008, State v. Arun Kumar Sharma alias Karu.

3. It appears that the learned Chief Judicial Magistrate discharged the revisionist on the ground that no case for framing charges against him was made out. The finding of the learned Chief Judicial Magistrate was based on appreciation/evaluation of the evidence and the materials collected during the investigation. The learned revisional court on the other hand took a contrary view and found that the learned Chief Judicial Magistrate ignored relevant evidence and committed error of law in discharging the revisionist.

4. The order of the learned revisional court seems to be perfectly correct and legal. The Chief Judicial Magistrate travelled beyond his jurisdiction in making appreciation of evidence at the stage of discharge. He should have taken all the

evidence and materials at their face value. If the materials and evidence collected in support of the charge-sheet had made out a prima facie case against the revisionist, the discharge of the revisionist was not proper on the ground that the materials/evidence were not acceptable.

5. What was required from the learned Chief Judicial Magistrate was to see as to whether the charges were groundless or not. The discharge could be made only when the charges were groundless. If adequate materials and evidence have been collected during the investigation and are placed before the court in support of the charges, there cannot be discharge of the accused on the ground that the charges are groundless. The discharge can be allowed only when the case is of no evidence or the evidence and the facts of the case do not constitute any offence or the prosecution is barred by any law. If there is evidence in support of the charge, the discharge cannot be made by making appreciation of the evidence.

6. The facts of the case are that the revisionist's father and the Respondent No. 2 are the real brothers. The Respondent No. 2 obtained a sale deed in his favour and got it registered in the Registration Office. It is alleged that the revisionist got the name of the Respondent No. 2 deleted and the name of his father added with the help of an official of the Registration department. The name of the Respondent No. 2 is Prem Narain and the name of the father of the revisionist is Jai Narain Sharma. It is alleged that from the name Prem Narain the word "Prem" was got deleted and in its place the word "Jai" was got inserted. Consequently it became Jai Narain instead of Prem Narain. This interpolation was done to provide wrongful gain to the revisionist and his father and a wrongful loss to the Respondent No. 2. Therefore, the ultimate beneficiary of the forgery was the revisionist and his father and as such his complicity for the forgery cannot prima facie be said to be without any substance.

7. Therefore, I do not consider it proper to interfere with the revisional court's order. Accordingly, the revision is dismissed.