

Reserved on:- 30.7.2025

Delivered on :- 20.8.2025

Neutral Citation No. - 2025:AHC:143098

Court No. - 82

Case :- CRIMINAL REVISION No. - 3698 of 2025

Revisionist :- Abbas Ansari

Opposite Party :- State of U.P. and Another

Counsel for Revisionist :- Sr. Advocate, Upendra Upadhyay

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Upendra Upadhyay, learned counsel for the revisionist and Sri Ajay Mishra, learned Advocate General, Sri M.C. Chaturvedi and Sri D.V. Singh, learned Additional Advocate Generals assisted by Sri Patanjali Mishra, learned Government Advocate and Sri Sanjay Singh, learned Additional Government Advocate for the State.

2. The instant revision has been filed by the revisionist with a prayer to quash the impugned order dated 5.7.2025 passed by learned Special Judge (MP/MLA)/Additional Sessions Judge, F.T.C.-I District Mau in Crl. Appeal No. 75 of 2025 (Abbas Ansari and another Vs. State of U.P. and another) to the extent it refuses the stay/suspension on the conviction passed against the revisionist by the Learned Chief Judicial Magistrate/Special Judge (MP/MLA), Mau in Crl. Case No. 9720 of 2023 (State Vs. Abbas Ansari and another) arising out of case crime No. 97 of 2022, under sections 171F, 506, 186, 189, 153A, 120B IPC, Police Station Kotwali, District Mau.

3. At the very outset, counsel for both the parties submitted that only legal issue is involved in the instant revision and entire relevant materials of the case have already been filed alongwith the affidavit filed in support of the instant revision, therefore, without calling counter and rejoinder affidavit instant revision may be heard and disposed off. Accordingly, after hearing the parties instant revision is being finally disposed off.

Brief facts of the case:-

4. Revisionist was sitting Member of Legislative Assembly from Mau Constituency of Uttar Pradesh and he was facing trial for offences under sections 171F, 189, 153A, 506 and 120 B IPC and trial court on 31.5.2025 convicted him for offences under sections 171F, 189, 153A, 506 and 120 B IPC

and awarded six months simple imprisonment with a fine of Rs. 2,000/- and in default one month additional imprisonment for offence under section 171F IPC; 2 years simple imprisonment with fine of Rs. 3,000/- and in default additional imprisonment of two months for offences under sections 189 and 153A IPC; one year simple imprisonment alongwith fine of Rs. 2,000/- and in default additional imprisonment of one month for offence under section 506 IPC and six months simple imprisonment with a fine of Rs. 1000/- and in default one month additional imprisonment for offence under section 120B IPC.

5. As revisionists was convicted by trial court for offences under Section 153A and 171F IPC and trial court while convicting him for offences under Section 153A and 189 IPC, awarded him sentence of two years imprisonment therefore, by virtue of Section 8, Representation of People Act 1951 (in short 'R.P. Act'), he has been disqualified as MLA. Against the judgment and conviction order passed by the trial court, revisionist preferred criminal appeal before sessions court and during pendency of appeal he made a prayer to stay the sentence and conviction order dated 31.5.2025 passed by the trial court. Learned appellate court vide impugned order dated 5.7.2025 however, stayed the sentence awarded by trial court but refused his prayer to stay the conviction order passed by the trial court. Hence, the instant revision.

Arguments advanced on behalf of revisionist:-

6. Learned counsel for the revisionist submits, revisionist was sitting MLA and as trial court convicted him for offences under Sections 153A and 171F IPC and while convicting him for offences under Sections 153A and 189 IPC awarded him two years imprisonment, therefore, in view of section 8 R. P. Act, he has been disqualified.

7. He further submits, law is settled that during pending appeal of an accused against his conviction order, the appellate court is empowered even to stay the conviction order passed by the trial court though in rare and exceptional cases. He next submits, considering the fact that due to the conviction order passed by the trial court against the revisionist for offences

under Sections 171F, 189 and 153A IPC, he has been disqualified as sitting MLA, therefore, instant case fell under the category of rare and exceptional cases and appellate court should stay his conviction order but learned appellate court refused to stay his conviction order and thus, committed gross illegality.

8. He further submitted that due to the refusal of the learned appellate court in granting stay on the conviction order passed against the revisionist, his entire political career has been adversely affected and while passing the impugned order, the learned appellate court failed to consider this aspect and thus impugned order dated 5.7.2025 to that extent is illegal.

9. He further submitted that revisionist was duly elected by his constituency and due to the conviction order passed against him for offences under Sections 171 F, 153A and 189 IPC, not only revisionist suffered with irreversible damages but people of his constituency also suffered with irreparable and irreversible loss as due to the disqualification of the revisionist, their constituency remains unrepresented before the Legislative Assembly and this aspect of the matter has also not been considered by the appellate court while passing the impugned order dated 5.7.2025 by which prayer of revisionist to stay his conviction order has been refused.

10. He further submitted that even from the entire materials available on record, it reflects that materials were not enough to convict the revisionist for offences under Sections 171F, 153A and 189 IPC.

11. He further submitted that promotion of enmity between different groups on grounds of religion, race, place of birth, residence, language etc. and doing acts prejudicial to maintenance of harmony is *sine qua non* for offence under section 153A IPC but from the evidence available on record it reflects, there is no evidence which can suggest that revisionist either acted prejudicial to maintenance of harmony or he promoted enmity between different groups on ground of religion or race.

12. He next submitted that the only allegation against the revisionist is that he being representative of people before more than 150 persons threatened the district administration of Mau and although entire allegations levelled against the revisionist were totally false but even if the same are accepted as

it is then also, no offence under section 153 A IPC is made out against the revisionist as by such speech, it cannot be said that he either acted prejudicial to maintenance of harmony or he promoted enmity between two groups.

13. He further submits, however, trial court also convicted the revisionist for offence under section 171 F IPC but from the allegation levelled against the revisionist and evidence produced by prosecution before the trial court even prima facie no offence u/s 171 F IPC is made out against him as evidence could not suggest that revisionist committed offence of undue influence at an election.

14. He further submitted that for offence under Section 189 IPC, maximum punishment is 2 years imprisonment and trial court awarded maximum sentence of two years to the revisionist for offence under Section 189 IPC and while awarding maximum sentence to him, trial court did not even assign any specific reason which was necessary while imposing maximum punishment for offence under Section 189 IPC.

15. He further submitted that as revisionist has been awarded punishment of two years for offence under Section 189 I.P.C., therefore, by virtue of section 8 R.P. Act, he has been disqualified from the post of MLA and therefore, by awarding maximum punishment for offence under Section 189 IPC trial court caused great prejudice to him and this aspect of the matter has also not been considered by appellate court.

16. He next submits, even considering the alleged speech delivered by revisionist it cannot be said that revisionist threatened to cause injury to any public servant and therefore, even his conviction for offence u/s 189 IPC is bad.

17. He further submitted that due to the conviction order passed against the revisionist, he has not only been disqualified from holding the post of MLA but in view of Section 8 R.P. Act he has also been disqualified for contesting election in future for six years and thus, revisionist suffered with irreparable and irreversible damages due to the conviction order passed against him for offences under Sections 171F, 153A and 189 IPC. He further submitted that while refusing the prayer of revisionist to stay the order of conviction,

appellate court also did not consider this important aspect and thus, again committed illegality.

18. He further submitted that however, apart from the present case, revisionist has also been made accused in eleven other cases but his entire criminal history has been duly explained in the affidavit filed in support to the instant revision and in all the cases he has been made accused due to his political background.

19. He further submits, out of 11 cases proceedings of three cases have been quashed including a case relates to U.P. Gangsters Act and in one case although revisionist was convicted but he is on bail and his appeal is pending.

20. He further submitted that from the criminal antecedents of the revisionist it could not be reflected that he committed any heinous offence and his criminal antecedents indicate that due to political vendetta he has been roped in all these cases and merely on the basis of such criminal antecedents, his prayer to stay the conviction order passed against him should not be refused.

21. He further submitted that even present case in which revisionist has been convicted is nothing but an outcome of political rivalry.

22. He further submitted that appeal filed by revisionist before learned appellate court is pending and considering the heavy docket of the learned appellate court, there is no hope of its early disposal.

23. He further submitted that therefore, impugned order dated 5.7.2025 passed by the learned appellate court to the extent it refuses to stay the conviction order is illegal and is liable to be set aside and conviction order passed against the revisionist should be stayed.

24. Learned counsel for the revisionist placed reliance on the following judgments:-

a. Rahul Gandhi Vs. Purnesh Ishwarbhai Modi (2024) 2 SCC 595.

b. Navjot Singh Sidhu Vs. State of Punjab (2007) 2 SCC 574.

c. Afjal Ansari Vs. State of U.P. (2024) 2 SCC 187.

Submissions advance on behalf of the State:-

25. Per contra, learned Advocate General vehemently opposed the prayer and submitted that revisionist committed offences under Section 171 F, 153A and 189 IPC alongwith other offences and considering the entire evidence produced by prosecution, prima facie, it cannot be said that trial court wrongly convicted him.

26. He further submitted that being representative of people, it was the duty of the revisionists not to deliver such speech which could disturb the public harmony and could create animosity between two groups.

27. He next submitted that the representatives of people must possess clean and unblemished character and considering this object, the provisions of section 8 R.P. Act were introduced by the legislature.

28. He further submitted that it is the settled legal position that stay on conviction should be made in rarest of rare cases and considering the criminal background of the revisionists and his family and facts of the present case, it cannot be said that present case fell into this category and therefore, there is no illegality in the impugned order.

29. He further submitted that for a representative of people, commission of offences under Sections 171F and 153A IPC is a serious matter and therefore for disqualification of a MP/MLA his mere conviction under Sections 171F and 153A IPC is sufficient irrespective of the sentence awarded to him and therefore, if a public representative has been convicted for offences under sections 171F and 153A IPC then his conviction order should not be stayed.

30. He further submitted that however, trial court awarded maximum sentence of two years to the revisionist for offence under section 189 IPC but from the conviction order dated 31.5.2025 passed by the trial court, it reflects, in para-59 of the judgment trial court duly considered why such sentence is being awarded to the revisionist and therefore, it cannot be said that while awarding maximum sentence to the revisionist trial court did not assign any reasons.

31. He further submitted that however, learned counsel for the revisionist placed reliance upon the judgment and order passed by the Apex Court in

case of *Rahul Gandhi(supra)* but facts of the present case and case of *Rahul Gandhi(supra)* are quite distinguishable. He further submits, Rahul Gandhi has not been convicted for offences under Sections 171F, 153 A and 189 IPC and he was convicted under Section 500 IPC i.e. in a ‘defamation case’ and therefore, the observation made by the Apex Court in that case cannot be beneficial to the revisionist in the present case considering the facts of the present case and his long criminal history.

32. He next submits, revisionist is having criminal history of as many as eleven cases including cases for offences under sections 171 F, 171H, 188, 189 IPC and trial of nine cases are still pending, therefore, considering his long criminal antecedents also his conviction order should not be stayed and therefore, learned appellate court by refusing to suspend his conviction order did not commit any illegality.

33. He next urged, appeal of revisionist is pending before the appellate court and therefore, it is not desirable to touch the merit of the case at this stage and whether revisionist has been rightly convicted or not this can only be decided by the appellate court. He further submits, even from the perusal of evidence produced against revisionist, prima facie, it cannot be observed that trial court wrongly convicted him.

34. He further submitted, therefore, impugned order passed against the revisionist cannot be said to be illegal and instant revision filed by revisionist is devoid of merit and is liable to be dismissed.

Analysis:-

35. Revisionist was a sitting Member of Legislative Assembly and by virtue of his conviction for offences under Sections 171F, 153A and 189 IPC by the trial court, he has been disqualified from the post of MLA in view of Section 8 R.P. Act.

36. The power of the appellate court to grant stay on conviction order is vested in section 430 BNSS (Section 389 CRPC) and from the catena of decisions of the Apex Court it has been settled that this power should not be exercised in routine manner and it should be exercised in rare and exceptional cases where due to his conviction appellant suffered with irreversible damages. The three Judges Bench of the Apex Court in case of

Lokprahari through its General Secretary S.N. Shukla VS Election Commission of India and others 2018 (18) SCC 114, after considering number of previous judgments of the Supreme Court in paragraph-16 observed as:-

“.....Since the decision in *Rama Narang vs. Ramesh Narang*, (1995) 2 SCC 513, it has been well-settled that the appellate court has the power, in an appropriate case, to stay the conviction under Section 389 besides suspending the sentence. The power to stay a conviction is by way of an exception. Before it is exercised, the appellate court must be made aware of the consequence which will ensue if the conviction were not to be stayed.....”

37. The three Judges Bench of Apex Court in case of ***Affal Ansari (supra)*** also held that in order to suspend the conviction of an individual, the primary factors that are to be looked into would be peculiar facts and circumstances of the case and where the failure to stay such conviction would lead to injustice or irreversible consequences and the very notion of irreversible consequences is centred on factors, including the individuals criminal antecedents, the gravity of the offences and its wider social impact while simultaneously considering the facts and circumstances of the case.

38. Therefore, considering the above principles of law, it is to analyse, whether revisionist was having case to grant stay on his conviction order and whether while refusing his prayer to stay his conviction learned appellate court committed any illegality or not.

39. Section 8 R.P. Act by virtue of which revisionist has been disqualified from the post of MLA is being reproduced here:-

“8. Disqualification on conviction for certain offences.—

(1) A person convicted of an offence punishable under—

(a) section 153A (offence of promoting enmity between different groups on ground of religion, race, place of birth, residence, language, etc., and doing acts prejudicial to maintenance of harmony) or section 171E (offence of bribery) or section 171F (offence of undue influence or personation at an election) or sub-section (1) or sub-section (2) of section 376 or section 376A or section 376B or section 376C or section 376D (offences relating to rape) or section 498A (offence of cruelty towards a woman by husband or

relative of a husband) or sub-section (2) or sub-section (3) of section 505 (offence of making statement creating or promoting enmity, hatred or ill-will between classes or offence relating to such statement in any place of worship or in any assembly engaged in the performance of religious worship or religious ceremonies) of the Indian Penal Code (45 of 1860); or

(b) the Protection of Civil Rights Act, 1955 (22 of 1955), which provides for punishment for the preaching and practice of “untouchability”, and for the enforcement of any disability arising therefrom; or

(c) section 11 (offence of importing or exporting prohibited goods) of the Customs Act, 1962 (52 of 1962); or

(d) sections 10 to 12 (offence of being a member of an association declared unlawful, offence relating to dealing with funds of an unlawful association or offence relating to contravention of an order made in respect of a notified place) of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967); or

(e) the Foreign Exchange (Regulation) Act, 1973 (46 of 1973); or

(f) the Narcotic Drugs and Psychotropic Substances Act, 1985 (61 of 1985); or

(g) section 3 (offence of committing terrorist acts) or section 4 (offence of committing disruptive activities) of the Terrorist and Disruptive Activities (Prevention) Act, 1987 (28 of 1987); or

(h) section 7 (offence of contravention of the provisions of sections 3 to 6) of the Religious Institutions (Prevention of Misuse) Act, 1988 (41 of 1988); or

(i) section 125 (offence of promoting enmity between classes in connection with the election) or section 135 (offence of removal of ballot papers from polling stations) or section 135A (offence of booth capturing) or clause (a) of sub-section (2) of section 136 (offence of fraudulently defacing or fraudulently destroying any nomination paper) of this Act; or

(j) section 6 (offence of conversion of a place of worship) of the Places of Worship (Special Provisions) Act, 1991], or

(k) section 2 (offence of insulting the Indian National Flag or the Constitution of India) or section 3 (offence of preventing singing of National Anthem) of the Prevention of Insults to National Honour Act, 1971 (69 of 1971);]

(l) the Commission of Sati (Prevention) Act, 1987 (3 of 1988); or

(m) the Prevention of Corruption Act, 1988 (49 of 1988); or

(n) the Prevention of Terrorism Act, 2002 (15 of 2002),

shall be disqualified, where the convicted person is sentenced to—

- (i) only fine, for a period of six years from the date of such conviction;*
- (ii) imprisonment, from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.*

(2) A person convicted for the contravention of—

- (a) any law providing for the prevention of hoarding or profiteering; or*
- (b) any law relating to the adulteration of food or drugs; or*
- (c) any provisions of the Dowry Prohibition Act, 7[1961 (28 of 1961)],*

and sentenced to imprisonment for not less than six months, shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.

(3) A person convicted of any offence and sentenced to imprisonment for not less than two years other than any offence referred to in sub-section (1) or sub-section (2) shall be disqualified from the date of such conviction and shall continue to be disqualified for a further period of six years since his release.

(4) Notwithstanding anything in sub-section (1), sub-section (2) or sub-section (3) a disqualification under either sub-section shall not, in the case of a person who on the date of the conviction is a member of Parliament or the Legislature of a State, take effect until three months have elapsed from that date or, if within that period an appeal or application for revision is brought in respect of the conviction or the sentence, until that appeal or application is disposed of by the court.

Explanation.—In this section—

“(a) law providing for the prevention of hoarding or profiteering” means any law, or any order, rule or notification having the force of law, providing for—

- (i) the regulation of production or manufacture of any essential commodity;*
- (ii) the control of price at which any essential commodity may be brought or sold;*
- (iii) the regulation of acquisition, possession, storage, transport, distribution, disposal, use or consumption of any essential commodity;*
- (iv) the prohibition of the withholding from sale of any essential commodity ordinarily kept for sale;*

(b) “drug” has the meaning assigned to it in the Drugs and Cosmetics Act, 1940 (23 of 1940);

(c) “essential commodity” has the meaning assigned to it in the Essential Commodities Act, 1955 (10 of 1955);

(d) “food” has the meaning assigned to it in the Prevention of Food Adulteration Act, 1954 (37 of 1954).”

40. From perusal of Section 8 R.P. Act, it reflects that if a person has been convicted for an offence punishable under Section 153A, 171F IPC and even if his sentence is only of fine then also he shall be disqualified, therefore, for disqualification of a person from the post of member of Legislative Assembly even his mere conviction for offences under sections 153A, 171F IPC is sufficient irrespective of the sentence awarded to him.

41. Further, from perusal of section 8 R.P. Act, it also reflects, if an individual is not convicted for offences mentioned in section 8(1) and (2) R.P. Act but if he has been convicted for other offences and has been awarded two years sentence then also he shall be disqualified and shall continue to be disqualified for further period of six years since his release. In the present case, as revisionist has also been convicted for offence under section 189 IPC and two years sentence has been awarded to him therefore, by virtue of section 8(3) R.P. Act he has also been disqualified due to this reason.

42. However, at this stage of analysing whether conviction order passed against a person can be suspended or not the meticulous and threadbare examination of evidence is neither permissible nor possible but even at this stage, appellate court can analyse the facts and circumstances of the case *[See: Afzal Ansari case (supra)]*. Even in view of the observations made by Supreme Court in case of *Navjot Singh Sidhu (supra)* at this stage it can also be considered, whether from the evidence produced by prosecution, prima facie, offences due to which he has been disqualified are made out or not.

43. Further, the three judges bench of the Supreme Court in case of *LokPrahari (supra)* also held that “the authority vested in the appellate court to stay a conviction ensures that a conviction on untenable or frivolous ground does not operate to cause serious prejudice” (see para 16 of the judgement).

44. In case at hand, as per prosecution revisionist being public representative before huge public gathering, threatened the district administration in respect of an election and except this speech, there is no other evidence against him.

45. Considering the above speech, it appears, prima facie offence under section 153A IPC is not made out against the revisionist as on the basis of evidence produced by prosecution prima facie it could not be reflected that the act of the revisionist was either prejudicial to public harmony or could promote enmity between different groups which was necessary for offence under section 153 A IPC (*See: Imran Pratapgari Vs. State of Gujarat and another, 2025 SCC Online SC 678*).

46. Further, as per Section 171 F IPC, whoever commits the offence of undue influence or personation at an election shall be punished for offence under Section 171 F IPC but from the above speech delivered by revisionist, prima facie, it could not be reflected that he committed offence of either undue influence or personation at an election as only evidence against him is that he during his public speech threatened the district authorities though in respect of an election.

47. Further, as far as conviction of revisionist for offence under section 189 IPC is concerned, merely by threatening district administration in public speech though with regard to an election, prima facie, it cannot be said that he committed offence under section 189 IPC as from the evidence prima facie it could not be reflected that act of revisionist was to give threat of injury to public servant.

48. Further, revisionist has been awarded maximum sentence of two years for offence under section 189 IPC and if he would have been awarded even a day less than two years then by virtue of his conviction under section 189 IPC he would not have been disqualified, therefore, it is necessary to analyse, while awarding maximum sentence of two years to revisionist for offence under section 189 IPC whether trial court assigned any reason or not. However, from para-59 of the conviction order it reflects, trial court after discussion observed that it is not appropriate to award lesser punishment to revisionist but it could not be reflected that why it was

necessary to award maximum sentence of two years to the revisionist for offences punishable under sections 189 IPC which was necessary to mention considering the consequences of his two years maximum sentence.

49. Further, revisionist was a sitting MLA and due to his conviction in the present matter, he has been disqualified, and therefore, at one hand, his conviction deprived his constituency from legitimate representation and on the other hand, it also restrained the revisionist to represent his constituency, therefore, it cannot be said that the conviction of the revisionist does not cause any irreversible consequence. The Apex Court in the case of ***Rahul Gandhi(supra)*** however, observed that a person in public place is expected to exercise a degree of restraint while making public speeches but Apex Court further observed that by virtue of Section 8 R.P. Act disqualification of a person not only affect the right of public representative to continue in the public life but also affect the right of electorate who have elected him to represent their constituency.

50. Further, revisionist was a public representative and was a sitting MLA and at the time of election he was delivering the speech and although being MLA, he should restraint himself but merely on delivering such speech (details of which have already given in preceding paras) refusal to stay his conviction in view of this Court amounts to injustice not only to the revisionist but also to the electorate who elected him. It appears, while refusing the prayer to stay the conviction, appellate court did not consider this aspect.

51. Further, non suspending the conviction order of the revisionist indicates far reaches consequences. Due to the conviction of the revisionist for offences under Sections 153A, 171F and 189 IPC, he not only remained disqualified but he also remained disqualified to contest the future election.

52. Further, however, from the record it reflects, apart from the case in hand, revisionist is also having criminal history of eleven other cases but from his criminal antecedents it reflects, all the cases were after the year 2019 and FIR of a case relates to U.P. Gangsters Act has been quashed by this Court and in one case relates to offence under section 171 H, 188 and 341 IPC this Court quashed the charge sheet and in one another case proceeding relates to

offences under section 171H, 188 IPC has been quashed however, proceeding with regard to offence under section 133 R.P. Act is pending and none of the case relates to heinous offences like rape, murder etc.

53. Further, however, the purpose of introduction of Section 8 R.P. Act is to resolve the issue of criminalization of politics and to depoliticizing criminality but while deciding the issue at hand, it is also necessary to consider the other facts and circumstances of the case like what are the actual allegations against the person who has been disqualified due to his conviction and whether his criminal antecedents of such nature which threatens the very idea of democracy.

54. Considering the overall facts and circumstances of the case including the political background of the revisionist and his family, facts of the present case and his criminal antecedents, this Court is of the view that it is not a case in which prayer to suspend the conviction of the revisionist should be refused.

55. Therefore, considering the facts and circumstances of the case discussed above, in view of this Court, the impugned order dated 5.7.2025 passed by learned appellate court is illegal and is liable to be set aside to the extent the prayer of revisionist to suspend/stay the conviction order passed against him has been refused and to that extent is, accordingly, set aside. The conviction order passed by trial court against the revisionist shall remain suspended during pendency of his appeal before the appellate court.

56. The instant revision filed by revisionist stands **allowed**.

57. It is made clear, the observation made by this Court in the instant revision was only for the purpose whether conviction order passed against revisionist can be stayed or not during pendency of his appeal. The appellate court shall not be influenced from any observation made in this order and shall decide the appeal of the revisionist independently in accordance with law.

Order date:-20.8.2025

Ankita