

Court No. - 10

Case :- CRIMINAL REVISION No. - 428 of 2012

Revisionist :- Raman Kirpal

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

Counsel for Revisionist :- Chandra Bhushan Pandey,Pranesh Misra,Rohit Tripathi

Counsel for Opposite Party :- Govt.Advocate,Himanshu Kumar Mishra,Krishna Kumar Misra,Momd Ali Shah,Qazi Sabih Ur Rahman,Rajesh Mishra

Hon'ble Dinesh Kumar Singh,J.

1. Heard and perused the record.

2. The present revision under sections 397 readwith section 401 of the Code of Criminal Procedure, 1973 has been filed against the Judgment and order dated 22-11-2012 passed by the learned A.S.J./T.E.C.P.-V Lucknow by which the Criminal Appeal No. 252 of 2007 filed by the revisionist was dismissed by confirming the Judgment and order of conviction and sentence dated 03-09-2007 passed by Special Chief Judicial Magistrate (Custom), Lucknow in Complaint Case No.801 of 2002 by which the revisionist was directed to undergo one year's imprisonment and to pay a fine of Rs. 5,000/- and in default of payment of fine, the revisionist was directed to undergo three months additional imprisonment.

3. Mr. Sayed Safdar Ali Kazmi, learned counsel for the revisionist, has handed over an affidavit of the revisionist, which is taken on record. In para-8 of the said affidavit, the revisionist has tendered unconditional apology to respondent no. 2, which reads under:

'8. Realizing my mistake, I officer my unconditional apology to the Respondent No. 2/Original Complainant for publishing such defamatory and derogatory news about him and sincerely express my regrets for the irreparable loss, pain and agony caused to him, his family and friends. I am deposing the same voluntarily without being influenced by coercion or inducement. I also submit that any such false attributions made were entirely unintentional, non-wilful and inadvertent.'

4. Thus, this Court thinks that the apology tendered by the revisionist is genuine and bonafide. The incident took place 28 years back. The two courts have concurrently held the revisionist guilty for offence under sections 500 I.P.C. The two courts have convicted and sentenced the revisionist as

mentioned above.

5. Learned counsel for the accused-revisionist submits that the accused-revisionist has not been convicted previously for any offence and he is the first time offender. The learned counsel at the outset submits that he is not challenging the impugned order, confirming the order passed by the trial Court, but he is confining his submission only with respect to the order of sentence passed by the learned trial Court.

6. It is not disputed that the accused-revisionist is the first time offender and was not previously convicted in any other case. Learned counsel for the revisionist submits that in view of the express provisions of Section 361 Cr.P.C., considering the facts and circumstances, nature of the offence, the character of the accused-revisionist and particularly, the time period which has lapsed since the date of incident, the benefit of Section 4 of the Act may be granted in this case.

7. In view of the above facts and circumstances mentioned and considering the scope of Section 4 of the Act, this revision is, accordingly, **dismissed** by upholding the conviction of the accused-revisionist. However, he is granted the benefit of Section 4 of the Act. The accused-revisionist is released on probation. Accused-revisionist shall file personal bonds to the tune of Rs.50,000/- for a year and he shall keep peace in the society and shall not commit any such offence in future. The accused-revisionist shall file the bond within a period of one month from today.

8. Considering the provisions of section 5 of the Probation Act, the revisionist is directed to pay a compensation of Rs.1,00,000/- (rupees one lakh) to respondent no. 2, Anant Kumar Singh, within one month from today. He shall deposit Rs.1,00,000/- before the learned trial court within one month from today, which shall be disbursed forthwith to Sri Anant Kumar Singh, opposite party no. 2 on due verification.

9. In case of breach of any of the said condition, the accused-revisionist will subject himself to undergo the sentence.

10. Let the copy of this judgment as well as the lower court record, if received, be transmitted to the concerned Trial Court forthwith for necessary compliance.

Order Date :- 8.8.2022

MVS/-