

Court No. - 14

Case :- CRIMINAL REVISION No. - 956 of 2024

Revisionist :- Sanjay Singh

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home, Lko And Another

Counsel for Revisionist :- Anuj Pandey, Anand Kumar Yadav, Nadeem Murtaza, Wali Nawaz Khan

Counsel for Opposite Party :- G.A.

Hon'ble Karunesh Singh Pawar, J.

1. Heard Mr. S.C. Mishra, learned senior counsel, assisted by Mr. Anuj Pandey and Mr. Nadeem Murtaza, learned counsel for the revisionist and learned Government Advocate, assisted by Mr. Alok Tiwari, learned Additional Government Advocate for the State.

2. By means of present criminal revision, the accused revisionist has prayed for acquittal of the revisionist with a further prayer to suspend the sentence awarded vide judgment and order dated 11.1.2023 passed by Addl. Chief Judicial Magistrate, Court No.18/Special M.P./M.L.A./Sultanpur in case crime No.782 of 2001 under sections 143, 341, 504, 506 I.P.C. and 32/34 Police Act, P.S. Kotwali Nagar, district Sultanpur, which has been affirmed in Criminal Appeal No.18 of 2023 by order dated 6.8.2024 passed by Additional District & Sessions Judge/Special Judge (M.P./M.L.A.), Court No.13, Sultanpur

while dismissing the appeal.

By the impugned conviction order, the revisionist along with other co-accused persons has been convicted and sentenced to undergo three months R.I. for the offence under section 143 I.P.C. and Rs.1000/- fine and in default, further ten days simple imprisonment, for the offence under section 341 I.P.C., the revisionist has been convicted and sentenced to undergo rigorous imprisonment for one month and Rs.500 fine, with default provision.

3.Learned senior counsel appearing for the revisionist submits that the testimony of prosecution witnesses falsifies the prosecution case. There are inconsistencies and contradictions in the testimony of the prosecution witnesses. P.W.1 Mithilesh Kumar Singh and P.W.2 S.I. Ashok Kumar Singh (complainant) have not taken the name of the revisionist in his cross examination nor P.W.1 has stated that the revisionist was a part of mob who have allegedly obstructed the road. P.W.2 has also not taken the name of the revisionist in deterring smooth movement of the traffic on the date of incident. Even P.W. 1 in his statement has said that he does

not recognise the persons participating in the alleged incident. Besides, there was no evidence before the trial Court to show that the alleged gathering incited violence or public disorder at the place of alleged incident. Ignoring all this, the learned trial Court as well as the appellant Court has erred in sentencing the revisionist by the impugned judgment.

It is further submitted that in political vendetta, the applicant has been falsely roped in few other criminal cases.

It is submitted that as the judgment of conviction suffers from impropriety and illegality, the execution of sentence may be stayed in view of the provisions of Section 397(1) CrPC which enables the revisional Court to exercise twin jurisdiction vested in it in cases where the accused is in confinement and not in confinement. He further submits that the revisionist in this case is not confined in jail and this Court has jurisdiction to stay the execution of sentence without requiring the revisionist to first surrender before the court below in the light of Section 397(1) CrPC.

4.Learned A.G.A. has opposed the prayer, however, he does not dispute the legal provision given in Section 397(1) CrPC.

5.I have considered the submission. Prima facie, the ingredients of sections 143 and 341 I.P.C. are missing and the judgments of both the Court below are perverse. Since the accused revisionist is not in confinement, this court while exercising twin jurisdiction given in section 397(1) CrPC may suspend the sentence even though the accused is not in jail.

6.In view of the above,the revision is admitted.

7.Summon the lower court record.

8.List this revision in due course.

9.Till further orders of the Court, execution of the sentence awarded vide the judgment and order(s) under revision shall remain stayed subject to the revisionist furnishing a personal bond of Rs.50,000/- to the satisfaction of the trial Court with an undertaking that he or his counsel shall appear in the Court when the revision is listed for hearing.

Order Date :- 22.8.2024

kkb/