

Court No. - 81

Case :- CRIMINAL REVISION No. - 959 of 1989

Revisionist :- Chhote Lal And Another

Opposite Party :- State And Smt. Champa Devi

Counsel for Revisionist :- Pragati, Archana Jha, Shaili Ganguly

Counsel for Opposite Party :- A.G.A

Hon'ble Mrs. Jyotsna Sharma, J.

1. Heard Ms. Archana Jha, learned counsel for the revisionist and Sri Vinay Kumar Singh, learned A.G.A. for the State. None responds for the private respondent no.2.

2. This revision has been filed challenging the judgment and order dated 07.06.1989, passed by Sessions Judge in Criminal Appeal No. 19 of 1989, whereby the appeal against conviction was dismissed and the sentencing order was modified. The appellate court directed that instead of imprisonment, the convicts will be released on probation of good conduct.

3. Relevant facts of the case are as below:

4. Smt. Champa (respondent herein) filed a complaint case against the accused Chote Lal and Smt. Bholi, under sections 323, 315, 504 and 506 I.P.C. The allegations in the complaint were that when she was coming back to her house, after fetching water from the village well, the accused person came armed with *lathi* and *danda*, obstructed her on the way, used filthy language and also gave blows from *lathi* and *danda*. The incident was witnessed by certain persons named in the complaint. The accused persons were summoned under sections 323, 504 and 506 (2) I.P.C., The complainant examined herself as P.W.-1 and few other witnesses, P.W.-2- Jhanjhan Lal, P.W.-3- Kartar Kaur and P.W.-4- M.K. Tondon.

5. The learned trial court appreciated the evidence and found that eyewitnesses account was corroborated by the medical evidence. The trial court found the offences under sections 323 and 506 (2) I.P.C. to have been proved beyond reasonable doubt; both the accused persons were convicted for offence under sections 323 and 506 (2) I.P.C. and sentenced to 6 months' imprisonment and Rs. 100/- as fine. They were acquitted from rest of the charges.

6. The accused persons preferred a Criminal Appeal No. 198 of 1989 before the Sessions Judge, Rampur. The learned Sessions Judge, independently assessed the evidence on record.. He agreed with the inferences drawn by the trial court and upheld the conviction. At the same time, the sentencing order was modified. It was directed that the accused persons shall be released on probation of good conduct under section 4 (1) of Probation of Offenders Act, 1958, for a period of one year from the date of furnishing of the bonds and in the meantime, shall keep peace and be of good behaviour. It was further ordered by the appellate court that they shall pay a sum of Rs. 200/- as a cost

of proceedings in favour of the State Government and the accused Chotte Lal shall pay a sum of Rs. 1000/- as compensation to the complainant-Champa within a period of two weeks after the bonds are furnished.

7. I went through the papers on record, the trial court appreciated the evidence in right perspective. The learned trial court has given cogent reasons for arriving at inferences of the offences as having been proven by the prosecution. It is rather noticeable that revisionist has not challenged the order passed by the trial court. Instead, the revisionist has chosen to challenge the order of the appellate court. This creates an anomalous situation which is difficult to work out. Moreover, there is nothing on record to disturb the findings of the trial court or of the appellate court as regard conviction is concerned. For clarity, it may be noticed again that revisionist has not challenged the trial court's order by which the convicts were convicted and sentenced to imprisonment and fine. Appellate court's order has been challenged, by which conviction was affirmed and sentence was modified taking a lenient and more logical stand. It is difficult to understand the reason behind such prayer. May be it is oversight or poor drafting of the revision memo. Be that as it may, the thing remains that order of conviction passed by appellate court is sound. The order for releasing the convicts on probation is equally logical. Nature of the case demanded giving of such benefit.

8. I do not find any good ground to interfere in the impugned order. The revision is liable to be dismissed and is therefore, **dismissed**.

9. Let a copy of the order be immediately certified through the court concerned for necessary action.

Order Date :- 12.10.2023

Sumit Kumar