

Court No. - 80

Case :- CRIMINAL REVISION No. - 1072 of 2023

Revisionist :- X- Minor

Opposite Party :- State Of U.P. And 3 Others

Counsel for Revisionist :- Bachcha Singh

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Chandra Sharma,J.

Heard learned counsel for the revisionist as well as learned A.G.A. for the State and perused the material on record.

The present criminal revision has been preferred by the revisionist through his father under Section 102 of the Juvenile Justice (Care and Protection) Act-2015 (hereinafter referred to as "J.J. Act, 2015) to allow the present revision and set aside the impugned judgment and order dated 04.01.2023 passed by learned Special Judge (POCSO Act)/Additional Sessions Judge, Court No.8, Ballia in Criminal Appeal No.44 of 2022 (X vs. State of U.P.) under Section 102(2) of Juvenile Justice Board as well as judgment and order dated 10.10.2022 passed by Principal Magistrate, Juvenile Justice Board, Ballia in Case Crime No.359 of 2017 (State of U.P. vs. X) under Sections 354, 452, 504, 506, 376 I.P.C. & Section 3/4 POCSO Act, Police Station Chitbaragaon, District Ballia and also prays to release the revisionist/delinquent on bail in the aforesaid case.

Facts in brief are that an F.I.R. was lodged on 26.05.2017 u/s 354, 452, 504, 506 I.P.C. & Section 7/8 POCSO Act with allegation that on 24.05.2017 rape was committed with the victim at 3:50 A.M. by the revisionist and other co-accused Sugreev Rajbhar who was major. After investigation charge sheet was filed u/s 354, 452, 504, 506, 376 I.P.C. & Section 3/4 POCSO Act. During the course of enquiry the revisionist was held to be juvenile aged about 13 years, 7 months & 14 days. The enquiry was conducted by the learned J.J. Board which after concluding the enquiry held him guilty except u/s 504 I.P.C. and was sent to special home for a period of 2 years & 6 months against which an appeal was filed before the learned court of Session as Criminal Appeal No.44/22 and it was decided by the Children's court by order dated 04.01.2023 by which appeal was dismissed and the order passed by learned J.J. Board was confirmed. Being aggrieved with the orders passed by

learned J.J. Board as well as appellate court the present revision was preferred before this Court.

At the outset, the learned counsel for the revisionist fully argued on the point of period the revisionist was sent to special home. It is further submitted that since the revisionist was aged about 13 years and is in custody since 10.10.2022 and one year has been passed, therefore, he be released from the special home by reducing the period for which he was sent to observation home.

Learned A.G.A. opposed the prayer as aforesaid and contended that in this case the period for observation home as determined by the learned J.J. Board cannot be reduced in the facts and circumstances of the case since he had committed an incident of rape with the victim aged about 12 with other co-accused person who was major and had also been convicted and sent to jail. There is no any other ground to take lenient view in favour of the revisionist, therefore, his prayer cannot be accepted and this criminal revision is liable to be dismissed.

Considering the facts and circumstances of the case, submissions made by learned counsel for the revisionist as well as learned A.G.A., perusal of record, the orders passed by learned J.J. Board as well as learned appellate court, this Court is of the opinion that keeping in view the age of the revisionist, his antecedent, the report as submitted by D.P.O. and the material on record, there appears ground for reduction of sentence for 2 years 6 months to the period already undergone by the revisionist in custody.

Accordingly, this criminal revision is, hereby, ***partly allowed***. The period of detention for 2 years & 6 months is reduced to the period undergone in custody. The learned J.J. Board is to take necessary steps in this regard.

Order Date :- 8.11.2023

Ashok Gupta