

Court No. - 78

Case :- CRIMINAL REVISION No. - 4010 of 2023

Revisionist :- Govind Singh Arya

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

Counsel for Revisionist :- Bheem Singh, Gyanendra Prasad Mahant

Counsel for Opposite Party :- G.A.

Hon'ble Raj Beer Singh, J.

1. Heard learned counsel for the revisionist and learned A.G.A. for the State.

2. The present criminal revision has been preferred against the order dated 06.07.2023, passed by the Additional District Judge/Special Judge, Prevention of Corruption Act (V.B.U.P.S.E.B.), Meerut in Special Criminal Case No.33 of 2002 (State vs. Govind Singh Arya), arising out of Case Crime No.18 of 1993, under Sections 420, 423, 467, 468, 471, 193 IPC and Section 13(1), 13 (2) of Prevention of Corruption Act, P.S. Sirsaganj, District Firozabad, whereby, the application filed by revisionist for summoning of answer sheet/ copies of the year 1973 and 1974 of Shastri Pariksha in defence evidence has been rejected.

3. It has been argued by the learned counsel for the revisionist that the impugned order is against facts and law and thus, liable to be set aside. In view of allegations levelled against revisionist, for proper adjudication of case, the summoning of the said record is necessary. By said record, it may be clarified that whether revisionist has appeared in Shastri Pariksha in the year 1973 and 1974 or not. The first information report of this case was lodged making false and baseless allegations and charge-sheet was submitted without proper investigation. The revisionist has joined

on the post of Principal in Acharya Gurukul Mahavidyalaya, Sirsaganj in the year 1981 and retired on 30.06.2016. The allegation that the revisionist got the said job by submitting forged and fake marks-sheet is wholly false. By summoning of the original answer sheets/ copies of the Shastri examination of the year 1973 and 1974, the revisionist would be able to show that he has appeared in the said examination. Referring to these facts, it was submitted that the impugned order is facts and law and thus, liable to be set aside. Learned counsel for the revisionist has placed reliance upon the case of Manik Pandey vs. State (Criminal Revision No. 3965 of 2023), decided on 05.10.2023 passed by this Court.

4. Learned A.G.A. has opposed the revision and argued that the trial court has noted that there is no such allegation against revisionist that he has made any tampering in the answer sheets or examination copies but the case of prosecution case is that he has prepared false and forged mark-sheets and got the alleged job on the basis of the forged and fake documents. During investigation, the Investigating Officer has collected the relevant record pertaining to the examination undertaken by the revisionist and thus, there is absolutely no basis to summon the examination copies of the year 1973 and 1974 and that such a record can hardly be available now after lapse of about 50 years.

5. I have considered the rival submissions and perused the record.

6. In case of Manik Pandey vs. State (supra) relied by learned counsel for the revisionist, this court in para No. 21 and 22 has held as under:

"21. Fair trial is the main object of criminal procedure and it is the duty of the court to ensure that such fairness is not hampered or threatened in any manner. Fair trial entails the interests of the accused, the victim and of the society, and therefore, fair trial includes the grant of fair and proper opportunities to the person concerned, and the same must be ensured as this is a constitutional, as well as a human right. Thus, under no circumstances can a

person's right to fair trial be jeopardized. Adducing evidence in support of the defence is a valuable right. Denial of such right would amount to the denial of a fair trial. Thus, it is essential that the rules of procedure that have been designed to ensure justice are scrupulously followed, and the court must be zealous in ensuring that there is no breach of the same. (Vide: Talab Haji Hussain v. Madhukar Purshottam Mondkar & Anr., AIR 1958 SC 376; Zahira Habibulla H. Sheikh & Anr. v. State of Gujarat & Ors., AIR 2004 SC 3114; Zahira Habibullah Sheikh & Anr. v. State of Gujarat & Ors., AIR 2006 SC 1367; Kalyani Baskar (Mrs.) v. M.S. Sampooram (Mrs.), (2007) 2 SCC 258; Vijay Kumar v. State of U.P. & Anr., (2011) 8 SCC 136; and Sudevanand v. State through C.B.I., (2012) 3 SCC 387).

22. Fair trial entails the interests of the accused, the victim and of society, and therefore, includes the grant of fair and proper opportunities to the person concerned, and the same must be ensured as this is a constitutional as well as human right. The trial court cannot deny an accused the right to summon witnesses he/she has cited for examination at any stage of trial, the Supreme Court has held. "

7. So far the jurisdiction of revision is concerned, it well settled that revisional jurisdiction should be exercised by High Court in exceptional cases only when there is some glaring defect in the procedure or a manifest error on a point of law resulting in flagrant miscarriage of justice. In Duli Chand Vs. Delhi Administration, 1975(4) SCC 649, Court reminded that jurisdiction of High Court in criminal revision is severely restricted and it cannot embark upon a re-appreciation of evidence. While exercising supervisory jurisdiction in revision, Court would be justified in refusing to re-appreciate evidence for determining whether concurrent findings of fact reached by learned Magistrate and Sessions Judge was correct. In Pathumma and another Vs. Muhammad, 1986(2) SCC 585, Court reiterating the above view and said that in revisional jurisdiction High Court would not be justified in substituting its own view for that of a Magistrate on a question of fact. In Munna Devi Vs. State of Rajasthan and another, 2001(9) SCC 631, it was observed that the revision power under the Code of Criminal procedure cannot be exercised in a routine and casual manner. While exercising such powers the High Court has no authority to appreciate the evidence in the manner as the trial and the appellate courts are required to do.

8. It is well settled principal of criminal law that fair trial is main object of criminal procedure and it is duty of the court to ensure

that such fairness is not hampered or threatened in any manner and accused has right to produce relevant defence, as observed in case of Manik Pandey vs. State (supra) but it does not mean that the accused can get summon the record, which is neither relevant nor there is possibility of availability of such record. In the instant case, the trial court itself has observed that the allegation against the revisionist is that he has prepared false and forged mark-sheets and got the said job on the basis of such forged documents. There is no such allegation that the revisionist did not appear in the examination or made any tempering in the answer sheets/ copies of examination. It was also observed that during investigation, the investigating officer has already collected the necessary documents regarding examination taken by the revisionist and marks obtained by him and the same have been proved the officials of the University. Further, the answer sheets / examination copies of the year 1973 and 1974 would hardly be available now. The trial court has considered all relevant facts of the matter and rejected the application filed by the revisionist. In view of these facts and circumstances, it can not be said that the impugned order is suffering from any such material illegality, perversity or error of jurisdiction so as to require any interference by this Court. The revision lacks merits and thus, liable to be dismissed.

9. Revision is dismissed.

Order Date :- 3.11.2023

Neeraj