

Reserved

Court No. - 79

Case :- CRIMINAL REVISION No. - 4579 of 2023

Revisionist :- Rahul

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

Counsel for Revisionist :- Geetam Singh

Counsel for Opposite Party :- G.A.

Hon'ble Vipin Chandra Dixit,J.

This criminal revision has been filed by the revisionist against the order dated 10.7.2023 passed by Additional Sessions Judge/FTC-I, Etah in Session Trial No. 81 of 2014(State vs. Rahul & others) arising out of Case Crime No.1158 of 2013 under Section 498A, 304-B IPC and Section 3/4 Dowry Prohibition Act, Police Station Kotwali, District Etah, by which the application filed by revisionist under Section 311 Cr.P.C. was rejected.

Heard Sri Geetam Singh, learned counsel for the revisionist and learned AGA for the State. Perused the record.

It is submitted by learned counsel for the revisionist that the revisionist had moved an application under Section 311 Cr.P.C. to summon P.W.-1 Smt. Pravesh Devi for cross-examination, which has wrongly been rejected by the learned trial court. It is further submitted that opportunity of cross-examination of P.W.-1 was closed by the learned trial court vide order dated 3.1.2018 whereas cross-examination of P.W.-1 is very necessary for proper adjudication of the trial.

Learned AGA, on the other hand, has submitted that despite repeated opportunities, learned counsel for the revisionist has failed to cross-examine P.W.-1 and as such, the order impugned dated 10.7.2023 has rightly been passed by the learned trial court and there is no illegality or irregularity in any manner.

Considered the rival submissions of learned counsel for the parties and perused the record.

Record shows that P.W.-1 Smt. Pravesh Devi was present before the trial court on 16.11.2017 and her examination-in-chief was recorded and the case was adjourned for 5.12.2017. The prosecution witness P.W.-1 was again present on 5.12.2017 for cross-examination but she was not cross-examined by the counsel for the revisionist-accused and they moved an adjournment application which was allowed on payment of cost of Rs.300/- and as a last opportunity, the next date 13.12.2017 was fixed for cross-examination of P.W.-1. On 13.12.2017 P.W.-1 was present before the court but she was not cross-examined and an adjournment

application was moved from the side of accused which was again allowed on payment of cost of Rs.400/-, and next date i.e. 3.1.2018 was fixed for cross-examination. The prosecution witness was again not cross-examined on 3.1.2018 and the opportunity of cross-examination was closed by the trial court and the date was fixed for further evidence. The accused-revisionist had moved an application (paper No.67-B) for summoning of P.W.-1 for cross-examination which was opposed by the prosecution and the learned trial court after hearing both the parties had rejected the application (paper No.67-B) vide order dated 28.6.2018. The prosecution had produced entire evidence and thereafter statement of revisionist-accused was recorded under section 313 Cr.P.C. The accused-revisionist had endorsed on 16.1.2023 that accused persons did not want to adduce any evidence in defence and therefore, 20.1.2023 was fixed for argument. The accused-revisionist had again moved an application under section 311 Cr.P.C. which is paper No. 112-A for cross-examination of P.W.-1 which was rejected by the learned trial court vide order dated 10.7.2023. The trial court has recorded the finding that despite repeated opportunities, P.W.-1 was not cross-examined by the accused side and application filed on behalf of accused persons for summoning P.W.-1 had already been rejected vide order dated 28.6.2018 and after about four and half years the present application under section 311 Cr.P.C. for summoning P.W.-1 was filed, only to delay the disposal of trial. The session trial is pending since 2014 and on account of delaying tactics adopted by accused persons, the trial could not be concluded.

The finding recorded by the learned trial court is based on evidence and materials which are available on record. It is apparent from perusal of record that several opportunities have been granted to the accused to cross-examine P.W.-1 and an application for the same relief has already been rejected on 28.6.2018, and at the stage of final arguments, the present application under Section 311 Cr.P.C. was filed which is an abuse of process of court.

The order passed by the learned trial court is just and proper and there is no illegality or irregularity in any manner. No interference is required in the facts and circumstances of the present case. The criminal revision is devoid of merits and deserves to be dismissed.

The criminal revision is dismissed accordingly.

Order Date :- 23.11.2023

P.P.