

Court No. - 80

Case :- CRIMINAL REVISION No. - 4659 of 2023

Revisionist :- X- Juvenile

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

Counsel for Revisionist :- Satya Prakash 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 is present.

The present criminal revision has been preferred by the revisionist through his father with a prayer to allow this revision and set aside the judgment and order dated 14.08.2023 passed by learned Additional Sessions Judge/ Special Judge (POCSO Act), Azamgarh in Criminal Appeal No. 55 of 2023 as well as order dated 12.06.2023 passed by Juvenile Justice Board, Azamgarh. Further prayed to release the revisionist on bail in Case Crime No. 31 of 2023, under Sections 323, 504, 506, 304 I.P.C., Police Station Didarganj, District Azamgarh.

It is submitted by learned counsel for the revisionist that in this case, revisionist was aged about 16 at the time of alleged incident and he is in Child Care Home since 20.02.2023. As per allegation in F.I.R. the revisionist pushed and made assault on the deceased causing internal injuries, as a result he died. The F.I.R. was lodged by the mother of the deceased at police station. It is also submitted that there is allegation against the revisionist to push the deceased. There was no any knowledge or intention to the revisionist to cause such bodily injury to him likely to cause his death. It is also submitted that during post mortem only two contusions were found on the person of the deceased those were simple in nature and were not likely to cause his death. It is also submitted that the deceased/ inured was taken to the hospital for medical examination by the S.H.O. concerned but no any such statement was recorded by him or by any other person to show that the deceased was not in a position to make the statement before his mother at his home on the basis of which F.I.R. was lodged. It is further submitted that there is nothing adverse against the interest of the child in the report submitted by D.P.O.

It is further submitted that the provisions as contained u/s 12 of the Juvenile Justice Act had not been considered by the Juvenile Justice Board even the report submitted by Probation Officer was also not considered. The appellate court has also not considered all these facts but rejected the appeal without applying its judicial mind and considering the law as contained u/s 12 of the aforesaid Act.

Learned A.G.A. opposed the prayer as aforesaid and contended that in this case the deceased told his mother when he arrived at his home after the commission of incident that revisionist pushed him and made assault. During post mortem two contusions were found on his person and about 1 litre of blood was found in his pelvic cavity which shows that internal injury was caused by the revisionist to the deceased, as a result he died. He also contended that the kidney of the deceased was also found lacerated which shows that injury was caused on that part of body also. In this way, it cannot be said that no any such injury was caused to the deceased which was likely to cause his death. He had also assaulted the deceased prior to the present incident. The revisionist was above the age of 16 and was well aware of the consequence of his act. He also contended that the D.P.O. has mentioned in his report that the revisionist was not under the control of his parents. In this way, the learned Board as well as appellate court have passed the orders after considering all the facts and circumstances of the case with relevant provisions of law as contained under Section 12 of the Act, as a result it cannot be said to be illegal and inappropriate but this revision has no merit, therefore liable to be dismissed.

Considering the facts and circumstances of the case, submission made by learned counsel for the revisionist as well as learned A.G.A. for the State, the allegation in F.I.R., post mortem report, it appears that, the learned Board as well as the learned appellate court have passed the orders in question after considering all the facts and circumstances and the relevant provisions of law and there appears no any ground to make interference in the orders passed by the learned courts below but this criminal revision being devoid of merit is liable to be ***dismissed***.

Order Date :- 8.11.2023

Suraj Srivastav