

Court No. - 82

Case :- CRIMINAL REVISION No. - 4561 of 2022

Revisionist :- Satvir And 3 Others

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

Counsel for Revisionist :- A.K. Mishra, Sati Shanker Tripathi

Counsel for Opposite Party :- G.A., Neelam Pandey

Hon'ble Shiv Shanker Prasad, J.

On 3.1.2023, following order has been passed in the matter:-

" Sri A.K.Mishra, learned counsel for the revisionist and learned A.G.A. for the State are present.

The present revision has been preferred to set aside the order dated 01.10.2022 passed by Addl. Sessions Judge/Special Judge (POCSO)-IIInd, District Gautam Budh Nagar, by which discharge application has been rejected.

Learned counsel for the revisionist submits that the FIR dated 14.05.2019 was lodged against the revisionist under Section 323, 307 and 504 IPC. It is further submitted that as per medical report, injured Rakesh received lacerated wound of 1.5 cm x 1.5 cm over lower leg central aspect 12 cm below from Rt. knee joint inverted wound with blackening and injury no.2 is round lacerated wound of 1.5 cm x 0.5 cm over right lower leg 6 cm below from (inverted wound) Ist injury.

It is further submitted that as per X-Ray report, no abnormality is detected. It is also submitted that the injuries were found on the non-vital part of the injured and offence under Section 307 IPC is made out. The impugned order has been passed without considering the facts and circumstances of the case.

Admit.

Learned A.G.A. accepts notice for opposite party no.1.

Issue notice to opposite party no.2 returnable at an early date.

Opposite parties may file counter affidavit within three weeks. Rejoinder affidavit will be filed within one week thereafter.

Put up on 20.02.2023 as a fresh.

Till the next date of listing proceeding of Sessions Trial No. 599 of 2022 shall remain stayed. "

Again 9.8.2023 following order has been passed in the matter:-

"Sri A.K. Mishra, learned counsel for the revisionists, Sri Pankaj Rai, Advocate holding the brief of Ms. Neelam Pandey, learned counsel for the opposite party no. 2 and learned A.G.A. for the State are present.

Before considering the matter on merits, Mr. Pankaj Rai, learned counsel appearing for opposite party no.2 submits that this criminal revision at the behest of the revisionist nos. 1 to 3 is not maintainable, as the deponent i.e. revisionist no. 4 has sworn forged affidavit accompanying the present criminal revision claiming that this revision has been filed by revisionist nos. 1 to 4 including himself. In support of such submission, learned counsel appearing for opposite party no.2 has referred the affidavits filed by revisionist nos. 1 to 3 before the Court of Additional District Judge, Court No.6, Gautam Budh Nagar, wherein they have claimed that they have not filed the present criminal revision nor they have authorized revisionist no.4 to file the present revision on their behalf.

For examining the genuineness/correctness or otherwise of the aforesaid submissions made by the learned counsel for opposite party no.2, the personal presence of revisionist nos. 1 to 3 are required before this Court to which the learned counsel appearing for the revisionists has no objection.

List this case as fresh on 18.09.2023.

Let revisionist nos. 1 to 3, Satvir, Mukesh and Sarmendra be present before this Court through their counsel on the next date fixed to verify the veracity of the affidavit filed by them in S.T. No. 1338 of 2021, arising out of Case Crime No. 142 of 2019 before the court below.

Interim order, if any, is extended till the next date of listing."

Lastly, on 18.9.2023, following order has been passed in the matter:-

"Sri Raj Kumar Tiwari, Advocate submits that compliance affidavit has been filed in the Registry on 12.9.2023, but the same is not on record.

Office is directed to trace it out and place the same on record.

Put up this case as fresh on 16.10.2023.

Interim order, if any, is extended till the next date of listing."

In compliance of the above orders Revisionist Nos. 1 to 3 namely, Satvir, Mukesh and Sarmendra have filed affidavit of compliance on 11.9.2023, which is on record. In the affidavit they have specifically stated that neither they have instructed any counsel to file any criminal revision on their behalf nor they have filed the present criminal revision. Therefore, the same be dismissed at their behest.

Today, on the matter being taken up, Mr. A.K. Mishra, Advocate who has filed the present criminal revision on behalf of revisionist No. 1 to 4 submits that the revisionist No.4 also does not want to press the present criminal revision, therefore, the same may be dismissed as not pressed at his behest with liberty to file a fresh criminal revision in his individual capacity.

In view of the aforesaid, the present criminal revision is dismissed. However, it shall be open for revisionist No.4 to file a fresh criminal revision in his individual capacity.

Interim order, if any, stands vacated.

Order Date :- 16.10.2023

Abhishek Singh