Court No. - 80

Case :- CRIMINAL REVISION No. - 5484 of 2022

Revisionist :- X- Juvenile
Opposite Party :- State of U.P. and Another
Counsel for Revisionist :- Pradeep Kumar,Piyush Patel
Counsel for Opposite Party :- G.A.

Hon'ble Subhash Chandra Sharma,J.

Heard learned counsel for the revisionist and 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 brother 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 23.11.2022 passed by learned Special Judge, Exclusive Court (POCSO Act) Maharajganj as well as order dated 14.10.2022 passed by Juvenile Justice Board, Maharajganj in Criminal Appeal No.43 of 2022 arising out of Enquiry No.65 of 2016 related to Case Crime No.544 of 2007 (State vs. Dharmendra Singh) under Section 304 readwith 34 I.P.C., Police Station Shyamdeurawa, District Maharajganj and also prays to release the revisionist/delinquent on bail in the aforesaid case.

Facts in brief are that the deceased Ramasarey was father of the informant and wife of the deceased died, thereafter, deceased established physical relations with Amrawati and then she began to make pressure on him to get the land transferred in her name but he was not ready to do so that was the reason on 14.07.2007 at about 7:00 P.M. Amrawati and her son (present revisionist) caused injuries to him and the said incident was witnessed by Vinod, Kirshna Murari and other persons of the village. Thereafter, the deceased was taken to the Medical College, Gorakhpur where he died during treatment and the present F.I.R. was lodged on 01.08.2007 by the informant at the police station u/s 304 I.P.C. After investigation charge sheet was filed against the present revisionist and Amrawati during the course of enquiry the revisionist was held to be juvenile and enquiry was proceeded on by the learned J.J. Board and on 14.10.2022 he was held guilty and was sent to Government Observation Home for a period of two years. Against the order passed by learned J.J. Board an appeal

was preferred before the learned court of Session which was heard and decided by order dated 23.11.2022 by which the order passed by learned J.J. Board was confirmed and appeal was dismissed. Being aggrieved with the orders passed by learned J.J. Board as well as the learned appellate court present criminal revision has been preferred before this Court.

It is submitted that in this case the delinquent/applicant was aged about 17 years at the time of alleged incident and was held to be juvenile by the learned J.J. Board. The incident took place in the year 2007 and enquiry was concluded in the year 2022 as a result the revisionist faced trauma of enquiry during such a long period which affected him adversely. It is submitted that there is no evidence on record to show that present revisionist caused injuries to the deceased specifically but general role was assigned to him with co-accused Amrawati who was his mother. The statement of the witnesses, said to have seen the incident, are close relatives of the informant, therefore, their testimony could not be relied. It is also submitted that learned J.J. Board as well as learned appellate court did not consider the contradictions in the statements of the witnesses and also the material on record while passing the order as aforesaid which is based on conjectures and surmises. Learned appellate court did also not consider all these facts, therefore, the orders passed by both the courts below cannot be said to be in conformity with the provisions of law and based on the material on record. As a result, the orders passed by both the courts below are liable to be set aside and this criminal revision is to be allowed. It is also submitted that sentence awarded to the revisionist is likely to be reduced in view of the Section 15(6) of the J.J. Act- 2000. The report submitted by the D.P.O. is also not adverse for the present delinquent even though the juvenility of the delinquent was not considered either by the J.J. Board or by the appellate court and also the provisions as contained u/s 12 of the aforesaid Act were not considered by the courts below while passing the aforesaid orders. The delinquent is in Juvenile Care Home since 14.10.2022 (i.e. more than one year) and his psychology is being affected adversely, therefore, requested to set aside the orders passed by the J.J. Board as well as appellate court and allow the present criminal revision as the orders passed by the courts below cannot be said to be in conformity with law.

Learned A.G.A. opposed the prayer as aforesaid and contended that in this case the revisionist was aged about 17 years at the time of alleged incident and he caused injuries to the deceased alongwith his mother (co-accused) in furtherance of common

intention as a result he died during the course of treatment. There is allegation that the revisionist assaulted the deceased with iron rod and co-accused Amrawati with lathi as a result fatal injuries were found on the head of the deceased during post-mortem and cause of death were those injuries. The said incident was witnessed by eye-witness Rajesh Singh, Vinod and Akshay Lal who deposed during the course of enquiry about the complicity of the present revisionist. The post-mortem also corroborates the manner of injuries caused to the deceased. All the injuries were found on the head of the deceased which show the intention of revisionist and other co-accused person for causing death and there was also motive to cause death of the deceased. Learned J.J. Board as well as learned appellate court passed the order on the basis of evidence on record. There was no major contradiction on the basis of which their statements could be said to be unreliable. Even the witnesses being relatives of the deceased cannot be discarded. In this way, there is no any illegality in the orders passed by learned J.J. Board as well as learned appellate court but this criminal revision being devoid of merit is 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., perusal of record, the orders passed by learned J.J. Board as well as learned appellate court, the allegation made in F.I.R., the post-mortem, the statements of the witnesses as deposed by PW-2 Rajesh Singh, PW-3 Vidod & PW-4 Akshay Lal, the eye-witnesses of the incident who stated categorically before the learned J.J. Board during the course of trial about the complicity of the present revisionist in causing injuries to the deceased with other co-accused and also the motive present behind it, there appears no any illegality or impropriety in the orders passed by the learned J.J. Board as well as the learned appellate court as a result both the aforesaid orders do not warrant any interference by this Court but this revision being devoid of merit is liable to be dismissed.

So far as the statements relating to the reduction of period of sentence is concerned, there appears no any ground to reduce the sentence.

Accordingly, this criminal revision is, hereby, ***dismissed.***

Copy of this judgment alongwith original record of the court below be transmitted to the court concerned.

Order Date :- 30.10.2023
Ashok Gupta

Digitally signed by :-
ASHOK KUMAR GUPTA
High Court of Judicature at Allahabad