

Court No. - 29

Case :- CRIMINAL REVISION No. - 549 of 2013

Revisionist :- Pintu Yadav

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

Counsel for Revisionist :- Deepak Kumar Singh

Counsel for Opposite Party :- Govt. Advocate, Rajiv Kumar Mishra

Hon'ble Umesh Chandra Sharma, J.

1. The case is taken up. None responds for the revisionist, Pintu Yadav and also none is present on behalf of the informant-opposite party no.2, Ishwardutt Yadav. Sri Arvind Kumar Singh, learned AGA for the State is present.

2. The matter is very old and on one pretext or the other the proceedings of this revision had been adjourned. Hence, it would be appropriate to decide the revision on merit after perusal of the record and hearing the arguments of learned AGA.

3. This revision has been preferred on behalf of the revisionist against the judgment and order dated 22.10.2013 passed by the Additional Sessions Judge, Court No.4, Gonda in Sessions Trial No.96 of 2012 (State Vs. Pintu Yadav) arising out of Case Crime No.60 of 2010, under Sections 363, 366, 376 IPC, Police Station Nawabganj, District Gonda by which the learned Judge rejected the application 29B filed on behalf of the revisionist for declaring him to be a juvenile at the time of occurrence.

4. In brief, facts of the case are that on 13.03.2010 an FIR was lodged by the opposite party no.2 against the revisionist at Crime No.60 of 2010, under Sections 363, 366, 376 IPC, Police

Station Nawabganj, District Gonda for the offence of kidnapping, abduction and rape of the daughter of the informant. During the course of trial the revisionist moved an application 29B stating therein that his actual date of birth is 14.07.1992 and the occurrence is said to have been occurred on 09.03.2010. Hence, at the time of occurrence he was below the age of 18 years and was a juvenile, therefore, he may not be tried by the regular criminal court.

5. The trial court considered the application, affidavit, school leaving certificate and the application 29B and also the objection filed by the prosecution. The trial court also considered the fact that earlier an application 10B was also moved by the revisionist stating that he was born on 12.01.1995. This application was also supported with 17B school leaving certificate and 18B marksheet of class-8th.

6. From perusal of the record, it transpires that later on the application 10B was not pressed by the revisionist and in this regard no explanation was given in the application 29B. The court concluded that since the facts were not true, hence the application 10B was not pressed by the revisionist. It had also been concluded that it cannot be accepted that when the revisionist was admitted in class-5th on 03.08.2004, he had not studied from class-1st to class-4th in any other educational institution. The court came to the conclusion that a person of such a tender age cannot be admitted directly in class-5th by an unknown teacher and that the name of previous institution where the revisionist would have been educated has not been disclosed intentionally as it would be adverse to the case and contention of the revisionist. The trial court had also rightly concluded that it is amazing that father of the revisionist does

not know the name of the teacher who admitted his son directly in class-5th. It was also concluded that the statement of PW-1, Smt. Ranju Misra is blatantly false and concocted.

7. Before rejecting the aforesaid application, the trial court also considered that in 2013 Pintu Yadav had filed a criminal complaint against one Bhulai in which he deposed under Section 200 CrPC stating himself to be a person of 25 years old. Thus, he would have been born in the year 1988 only then he would have deposed himself to be a person of 25 years old under Section 200 CrPC. It was also considered by the trial court that the previous application 10B was not pressed by the revisionist and his father, as no such school ever existed. It had also been rightly considered that even in the affidavit the revisionist has said himself to be a person of 25 years of age.

8. According to this Court, on the basis of above records available on record this Court is of the view that the trial court has rightly and justly rejected the application of the revisionist. All the applications moved by the revisionist stating himself to be a juvenile at the time of commission of crime is nothing but to prolong and mislead the Court which has no substance. The revision lacks merit and is liable to be dismissed outrightly.

9. Accordingly, the revision is dismissed.

10. Interim order, if any, stands vacated.

11. Let a copy of this order be forwarded to the concerned court for necessary compliance, if any.

Order Date :- 18.5.2023
Shahroz