

Court No. - 12

Case :- CRIMINAL REVISION No. - 563 of 2023

Revisionist :- Raj Tiwari Converted Name Devraj

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Lko. And 3 Others

Counsel for Revisionist :- Virendra Kumar Shukla

Counsel for Opposite Party :- G.A.,Manoj Kumar Gupta

Hon'ble Rajeev Singh,J.

1. Counter affidavit filed by learned A.G.A. is taken on record.

2. Heard learned counsel for the revisionist, learned A.G.A. for the State and perused the record.

3. This Criminal Revision has been filed for quashing the impugned order dated 28.03.2023 passed by learned Juvenile Justice Board, Barabanki as well as judgement and order dated 21.04.2023 passed by Juvenile Court, Court No.44, District- Barabanki in Criminal Appeal No.16 of 2023 arising out of Case Crime No.519 of 2022 U/s 323, 363, 366, 376D, 504, 384 I.P.C. & Section 5/6 P.O.C.S.O. Act, Police Station- Ram Nagar, District- Barabanki.

4. Learned counsel for the revisionist submitted that revisionist has been falsely implicated in the present case as F.I.R. of the case in question was lodged by the father of the victim on the narration given by the victim. In the F.I.R., it was alleged that the victim was aged about 16 years and she was student of class IX. On 12.07.2022, she was in the school, when applicant and co-accused informed her that his mother has fallen ill and brought her to the house of Raj Tiwari and applicant had taken some photographs of her and thereafter applicant started blackmailing her and five gold rings and one chain of 20 grams was taken from her and a demand of Rs. 1,00,000/- was also placed, failing which her photographs would be aired on the social sites. When her photographs were viral on the social sites, and it came to the notice of her family members, then the F.I.R. of the case in question was lodged. Learned counsel for the revisionist submitted that co-accused Irshad @

Irshad Raeen has already been enlarged on bail by this Court vide order dated 11.10.2023 passed in Criminal Revision No.625 of 2023, therefore, the impugned orders are liable to be set aside and revisionist is entitled for bail.

5. Learned A.G.A. opposed the prayer of the revisionist and submitted that in the second statement of the victim recorded under Section 164 Cr.P.C. allegation of rape was made but he does not dispute this fact that neither in the statement of victim recorded under Section 161 Cr.P.C. nor in her first statement recorded under Section 164 Cr.P.C., allegation of rape has been alleged against the revisionist. He also does not dispute this fact that co-accused Irshad @ Irshad Raeen has already been enlarged on bail by this Court

6. In view of the above, the present revision is allowed and the impugned order dated 28.03.2023 passed by learned Juvenile Justice Board, Barabanki as well as judgement and order dated 21.04.2023 passed by Juvenile Court, Court No.44, District- Barabanki in Criminal Appeal No.16 of 2023 arising out of Case Crime No.519 of 2022 U/s 323, 363, 366, 376D, 504, 384 I.P.C. & Section 5/6 P.O.C.S.O. Act, Police Station- Ram Nagar, District- Barabanki are hereby set aside.

7. Let revisionist, namely, **Raj Tiwari Converted Name Devraj**, be released on bail in Case Crime No.519 of 2022 U/s 323, 363, 366, 376D, 504, 384 I.P.C. & Section 5/6 P.O.C.S.O. Act, Police Station- Ram Nagar, District- Barabanki on furnishing of a personal bond alongwith an undertaking on behalf of revisionist by his legal guardian to the effect that he will not permit the revisionist to come in association with any known criminal or expose him to moral, physical or psychological danger or that his release would defeat the ends of justice and provide no occasion to the revisionist whereby his release on bail would defeat the ends of justice, by his legal guardian and two sureties each in the like amount to the satisfaction of the Court concerned subject to following conditions:-

(i) Revisionist will not try to influence the

witnesses or tamper with the evidence of the case or otherwise misuse the liberty of bail.

(ii) Revisionist will fully cooperate in expeditious disposal of the case and shall not seek any adjournment on the dates fixed for evidence when witnesses are present in the Court.

(iii) Revisionist shall remain present, in person, before the Board on the dates fixed for (a) opening of the case; (b) framing of charge; and (c) recording of statement under Section 313 Cr.P.C. If in the opinion of the Board that absence of the revisionist is deliberate or without sufficient cause, then it shall be open for the Board to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

8. Any violation of above conditions will be treated misuse of bail and Board will be at liberty to pass appropriate orders in the matter regarding cancellation of bail.

Order Date :- 19.12.2023

Gaurav/-