

Court No. - 12

Case :- CRIMINAL REVISION No. - 1186 of 2023

Revisionist :- Harishchandra And 3 Others

Opposite Party :- State Of U.P. Thru. Prin. Secy. Deptt. Of Home Lko And Another

Counsel for Revisionist :- Pankaj Kumar Mishra, Rakesh K. Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh, J.

1. Heard learned counsel for the revisionists, learned A.G.A. for the State and perused the record.
2. Present revision has been moved by the revisionists for quashing judgment and order dated 09.10.2023 passed by Additional Sessions Judge, Court No.4/Special Judge (E.C. Act), Hardoi on application U/S 311 Cr.P.C. in S.T. No.166/2015 (State Vs. Harishchandra & Ors.) arising out of Case Crime No.116/2014 under Section 308, 323, 324, 325, 506 I.P.C. P.S. Pali, District- Hardoi.
3. Learned counsel for the revisionists submitted that the four most pertinent questions could not be asked from P.W.1 as well as P.W.2, therefore, application under Section 311 Cr.P.C. was filed for recall of P.W.1 and P.W.2 for cross examining them on four points as mentioned in the application but the trial court rejected the same. He further submitted that in the interest of justice, aforesaid witnesses may be recalled by giving one opportunity at one day.
4. Learned A.G.A. opposed the prayer of revisionists and submitted that sufficient opportunity was given to the defence counsel to cross-examine P.W.1 as well as P.W.2, and now, the case is at the stage of final hearing but he does not dispute this fact that all the four questions, mentioned in the application, are most pertinent questions for trial.
5. Considering the submissions of learned counsel for the parties, going through the contents of revision, as well as other relevant documents, as by moving application under Section 311 Cr.P.C., request was made before the trial court for asking

four questions from P.W.1 as well as P.W.2 that are: whether at the time of incident, injured was unconscious? In case, he was unconscious then who had informed the informant about the incident? And whether the injured was also brought to the police station, if not, then where was he sitting? As for the substantial justice, the application under Section 311 Cr.P.C. of the revisionist was to be allowed by giving one opportunity, accordingly, the revision is **allowed** and order dated 09.10.2023 passed by Additional Sessions Judge, Court No.4/Special Judge (E.C. Act), Hardoi on application U/S 311 Cr.P.C. in S.T. No.166/2015 is hereby **set aside**.

6. Trial court is directed summon P.W.1 and P.W.2 by fixing one date to give one opportunity to counsel for the revisionist to cross-examine P.W.1 and P.W.2 on the cost of Rs.10,000/- and the same shall be remitted to P.W.1 and P.W.2.

Order Date :- 30.10.2023

V. Sinha