

Court No. - 12

Case :- CRIMINAL REVISION DEFECTIVE No. - 426 of 2023

Revisionist :- State Of U.P. Thru. Prin. Secy. Home Lko.

Opposite Party :- Pramod Kumar Sharma And Another

Counsel for Revisionist :- G.A.

Hon'ble Rajeev Singh,J.

(C.M.A. No.1/2023)

1. Heard learned counsel for the parties.
2. Perused the affidavit filed in support of the application for condonation of delay.
3. The reason, for delay in filing the revision is found to be sufficient.
4. Consequently, application is **allowed**.
5. Delay in filing the revision is condoned.

(Order on Criminal Revision)

1. Heard learned A.G.A. for the revisionist-State.
2. Learned A.G.A. has submitted that learned court below convicted the private respondents under Section 323, 325 I.P.C., thereafter, appeal was filed by the private respondents, which was allowed in the most mechanical manner. He further submitted that as per the prosecution case, on 17.3.1994 at 7:30 A.M., injury was caused to the injured by the private respondent with lathi, danda, as a result, his left hand was fractured and brother of the informant as well as his wife was also beaten and his tubewell was also dismantled, thereafter, on the written complaint of the informant, F.I.R. as Case Crime No.248/1994 under Sections 323, 325, 504, 426 I.P.C. was lodged and the medico legal examination of informant and his brother was also conducted. He further submitted that statement of informant and his brother was recorded under Section 161 Cr.P.C. and site plan was also prepared, later on, charge sheet was submitted by the Investigating Officer for the offence under Sections 323, 504, 325, 426 I.P.C. against the private respondents and after framing

of charge, the witnesses were examined and they supported the prosecution version but learned court below acquitted them from the offence under Sections 504, 426 I.P.C. and convicted for the offence under Section 323, 325 I.P.C. He next submitted that appeal was filed and the learned appellate court acquitted the private respondent under Sections 323, 325 I.P.C. also. He also submitted that it is evident from the record that F.I.R. was lodged by the informant, who was examined before the trial court as P.W.1., and in the F.I.R., he categorically stated that injury was caused with lathi, danda but before the trial court, he developed a case that injury was caused with butt of spade on his elbow. He lastly submitted that during the course of trial, doctor who conducted the examination, also stated that this injury may be received by felling down, as the spade was not recovered by the Investigating Officer.

3. Considering the submissions of learned A.G.A., going through the record of criminal revision, statement of informant as well as other relevant documents, it is evident from the record that all the injuries of the injured are superficial, except the injury of elbow which can be caused by felling down, in such circumstances, it is evident that evidences are rightly appreciated by the appellate court, therefore, present criminal revision is misconceived and accordingly, **dismissed**.

Order Date :- 24.11.2023

Gaurav/-