

Court No. - 12

Case :- CRIMINAL REVISION No. - 1283 of 2023

Revisionist :- Ram Prasad @ Tunni

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

Counsel for Revisionist :- Anumesh Mishra, Awadhesh Kumar
Tiwari, Sushil Kumar Verma

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh, J.

1. Heard learned counsel for the revisionist, learned A.G.A. for the State and perused the material brought on record.
2. This revision has been filed for quashing the order dated 18.10.2023 passed in Special Sessions Trial No. 464 of 2004, (State Vs. Gyanwati).
3. Learned counsel for the revisionist submits that as per the prosecution case, weapon was recovered by Sub-Inspector V.K. Singh on 08.04.2004 in the presence of the witnesses, namely, Ram Shankar Yadav, Mulayam Singh Yadav, Rakesh Kumar, Manoj Kumar (villagers) and Constable Ram Singh, and the recovery memo was prepared, on which, all the aforesaid persons made signatures. It is further submitted that during the course of trial, aforesaid recovery memo was numbered as Ex. Ka-10. Submission of the learned counsel for the revisionist is that it was obligatory on the part of the trial court to call one either of the witnesses of the recovery memo or the Officer, who prepared the same, but neither any witness nor the Sub-Inspector, V.K. Singh was summoned for proving the recovery memo as well as the article. Thereafter, application was filed on 16.11.2022 for summoning of the Sub-Inspector, V.K. Singh or one of the witness of the recovery memo, but the same was also wrongly rejected. It is, thus, submitted that the indulgence of this Court is necessary.
4. Learned A.G.A., on the other hand, vehemently opposes

the prayer of the revisionist and submits that the application moved by the revisionist was rightly rejected by the court below on the ground that Brij Mohan Yadav, then S.H.O. had identified and proved the writing of Sub-Inspector, V.K. Singh and there is no prejudice to the accused persons. The court below also observed that all of the eye witnesses have supported the prosecution version and opportunity was also given to the revisionist to cross-examine the then S.H.O. Lastly, it is observed that now the case is listed for recording the statement under Section 313 Cr.P.C. and the intention of the accused-revisionist is only to linger on the proceedings, which is pending since 20 years. It is, thus, submitted that the court below has rightly passed the impugned order warranting no interference and the present revision is liable to be dismissed.

5. Considering the arguments advanced by the learned counsel for the revisionist, learned A.G.A. and going the contents of the revision, impugned order as well as other relevant documents, it is evident that the writing of Sub-Inspector, V.K. Singh, who prepared the recovery memo, was proved by then S.H.O., in whose presence, the recovery memo was prepared. It is also evident that the said S.H.O., Brij Mohan Yadav was appeared before the court below as P.W. 8 and opportunity to cross-examine him was also given to the accused. Admittedly, the recovery memo has not been challenged.

6. In view of above facts and circumstances and also the fact that the matter, which is pending since 2004, is being listed for recording of the statement under Section 313 Cr.P.C., this Court finds no illegality in the order passed by the court below.

7. The revision is misconceived and stands dismissed.

Order Date :- 23.11.2023

VKS