

Court No. - 12

Case :- CRIMINAL REVISION No. - 1365 of 2023

Revisionist :- Dev Mani Mishra

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

Counsel for Revisionist :- Naveen Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh,J.

1. Heard learned counsel for the revisionist as well as learned A.G.A. for the State and perused the record.

2. The present revision has been filed for quashing the impugned order dated 22.11.2023 passed by learned Additional Sessions Judge, Court No.3, Gonda by summoning the revisionist under section 319 Cr.P.C. in S.T. No. 138/2016, '**State Vs Shesh Kumar & others**', arising out of Case Crime No. 98A/2010, under section 307, 323, 324, 325, 504, 506 I.P.C., relating to Police Station- Tarabganj, District - Gonda and further proceedings of S.T. No. 138/2016.

3. Learned counsel for the revisionist submits that revisionist was named in the F.I.R. of the case in question but after investigation, his name was dropped and charge-sheet was submitted by Investigating Officer against Ram Manorath, Shesh Kumar & Ram Naresh. He further submits that the case was committed to the court of sessions and after framing of charge, witnesses were examined. During the course of investigation, statements of the alleged witnesses were also considered by the Investigating Officer but the name of revisionist was dropped during the course of trial. It is further submitted that application U/s 319 of Cr.P.C. was moved by revisionist and learned trial court passed the impugned order by which revisionist has been summoned. It is, thus, submitted that the statements of independent witnesses were not considered by learned trial court, hence, indulgence of this Court is required.

4. Learned A.G.A. opposes the prayer of revisionist and submits that during the course of investigation, the injured witness, namely, Angad Kumar categorically stated that the alleged injury was caused by revisionist; but the same was not considered by Instigating Officer and on the basis of statement of some other witnesses, revisionist's name was dropped. He further submits that the testimony of the injured witness cannot

be discarded, therefore, there is no illegality in the order passed by learned trial court.

5. Considering the submissions of learned counsel for the revisionist, learned A.G.A. and going through the contents of application as well as other relevant documents; it is evident from the impugned order that the deposition of injured witness, namely, Angad Kumar was recorded, in which, he categorically stated that revisionist caused injury to him. Therefore, learned trial court rightly passed the summoning order.

6. In view of above, this Court is of the view that the present criminal revision lacks merit and accordingly, stands **dismissed**.

7. It is open to revisionist to apply for bail at the appropriate stage and in case, any bail application is moved then the same shall be considered and decided in accordance with law, sympathetically.

Order Date :- 13.12.2023

Arpan