



2025:UHC:3319

HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Revision No. 159 of 2025

Kailash Yadav

.....Revisionist

Versus

State Of Uttarakhand and another

.....Respondents

Presence:-

Mr. Mani Kumar, Advocate for the revisionist.

Mr. Akshay Latwal, learned A.G. A. for the State.

Dated : 30.04.2025

Hon'ble Vivek Bharti Sharma, J. (Oral)

Present criminal revision is filed by the revisionist/convict against the judgment and order dated 10.03.2025 passed by learned Sessions Judge, Rudrapur, District Udham Singh Nagar in Criminal Appeal No. 221 of 2023, whereby the appeal filed by the revisionist/convict was dismissed by affirming the judgment and order dated 15.12.2023 passed by Trial Court of learned Chief Judicial Magistrate, District Udham Singh Nagar in Criminal Case No. 6694 of 2018.

By the said impugned judgment and order, the trial court convicted the revisionist under Sections 354, 354A, 354B I.P.C. and sentenced revisionist/convict to undergo rigorous imprisonment of two years along with a fine of ₹1,000/- and in default of payment of fine to further undergo the additional imprisonment for a period of one month under Section 354 I.P.C.; sentenced to undergo rigorous imprisonment of two years along with a fine of ₹1,000/-



and in default of payment of fine to further undergo the additional imprisonment for a period of one month under Section 354A I.P.C.; and sentenced to undergo rigorous imprisonment of two years along with a fine of ₹2,000/- and in default of payment of fine to further undergo the additional imprisonment for a period of two months under Section 354B I.P.C.

2. Brief facts of the case are that an FIR was lodged on 09.12.2018 at Police Station, Pantnagar by the prosecutrix/ victim alleging therein that while she was on morning walk at around 6:00 A.M., the revisionist/convict approached her from behind, smothered her mouth, dragged her behind the “*Check Post*” and outraged her modesty by pulling and tearing her clothes and misbehaving with her in sexually offensive manner; the prosecutrix/victim managed to free herself, fled and sought refuge at Gandhi Bhawan, however, the accused followed her there; during the incident, she also sustained injury on her hand; that, on the basis of said complaint, the statement of the prosecutrix/victim was recorded under Section 161 and 164 Cr.P.C., and after completion of investigation, a charge sheet was filed against the revisionist/convict under Sections 354, 354A, 354B & 506 of I.P.C.

3. The Chief Judicial Magistrate, District Udham Singh Nagar on receipt of the charge sheet and after giving necessary copies to the accused as required under section 207 Cr.P.C., committed the case to the court of Sessions for trial. The Chief Judicial Magistrate, District Udham Singh Nagar after hearing the parties, framed charge of offence punishable under Sections 354, 354A, 354B and 506 IPC against the revisionist/convict who



pleaded not guilty and claimed to be tried.

4. The prosecution, in order to prove its case, examined as many as six prosecution witnesses i.e. PW1 prosecutrix/victim, PW2 mother of the prosecutrix/victim, PW3 sister of the prosecutrix/victim, PW4 brother of prosecutrix/victim, PW5 Sub Inspector Sonika Joshi Investigating Officer and PW6 Beena Patalia, Assistant Warden of the Hostel, Gandhi Bhawan.

5. The prosecution witnesses i.e. PW2 (*mother of the prosecutrix/victim*), PW3 (*sister of the prosecutrix/victim*), and PW4 (*brother of the prosecutrix/victim*) in their testimonies before the trial court recounted the version of events as narrated to them by the prosecutrix/victim as they were not present at the scene of the incident.

6. The prosecutrix/victim was examined as PW1, who in her testimony stated that on 09.02.2018 at approximately 6:00 AM, the victim went out for a routine morning walk, upon reaching Gandhi Bhawan, she was suddenly assaulted by revisionist/convict, who resided near her home, the revisionist/convict smothered the mouth of the prosecutrix/victim and dragged her behind the check-post, misbehaved with her in sexually offensive manner, when prosecutrix/victim resisted, the revisionist/convict pushed her, tore her clothes, and she sustained injuries on her hands; that, she managed to escape screaming towards Gandhi Bhawan, but the gate was closed, she collapsed unconscious near it then a guard at Gandhi Bhawan assisted her by giving her water; that, after which she regained consciousness;



that, the guard then informed her sister, Rikku Yadav, who also work at Gandhi Bhawan; that, the mother and sister of the prosecutrix/victim arrived shortly thereafter and took the prosecutrix/victim home, and later, she was taken to the Hospital for medical attention, subsequently, a written complaint (Tahrir) was submitted to the Pantnagar Police Station by her brother, Jitendra Yadav.

7. PW5 Sub Inspector Sonika Joshi, Investigating Officer in her testimony before the trial court stated that at the relevant time, she was posted at Police Station Pantnagar and on 10.12.2018, she received the complaint filed by prosecutrix/victim. After reviewing the chick report, and marking the evidence of the victim and her brother, the revisionist was arrested from his house and was taken into police custody, after taking his evidence, revisionist/convict was presented before the court from where his 14 days judicial remand was accepted.

8. PW6 Beena Patalia, Assistant Warden, Gandhi Bhawan in her testimony before the trial court stated that at the relevant time, she was posted as Assistant Warden at Gandhi Bhawan, Pantnagar and on the morning of 09.12.2018 between 6:00 A.M. and 6:30 A.M., Ramesh Bhatt, the Hostel Guard, informed her that a girl had fainted near the gate, she immediately proceeded to the gate with Ramesh Bhatt, where she observed a girl crying and being cared for by another girl from her hostel, who was offering her water, upon inquiry, the assisting girl informed her that the distressed girl was the sister of PW3, who was employed at the hostel then Ramesh Bhatt contacted the family of the prosecutrix using his phone; that, soon thereafter, the sister of the prosecutrix/victim arrived; that, throughout this time,



the prosecutrix/victim appeared to be very frightened and continued to cry uncontrollably.

9. The statement of revisionist/convict was recorded under Section 313 Cr.P.C. (*the criminal procedure then was*), in which he pleaded that he has falsely been implicated in the case. He also stated that false evidences were given by all the witnesses against him. In defence, the revisionist/convict only filed the photocopies of the alleged complaint given by him to the Security Officer, Govind Ballabh Pantnagar University and the letters regarding the enmity between the revisionist/convict and the family of the prosecutrix/victim. The revisionist/convict later on, filed copy of complaint of Complaint Case No. 237 of 2021 filed by wife of revisionist/convict against the father of PW1 prosecutrix/victim.

10. After hearing the learned counsel for the parties and perusal of the evidence by the parties, the trial court in its impugned judgment convicted and sentenced the revisionist under Sections 354, 354A, 354B IP.C. Feeling aggrieved, the revisionist/convict has filed criminal appeal, which was dismissed by the Appellate Court. Hence, this present revision is filed by the revisionist/convict assailing the said judgments.

11. Learned counsel for the revisionist/convict would press the present revision mainly on the ground that the complainant and her family were having enmity with the family of the revisionist/convict; that, it is alleged that on 21.01.2018 at about 5:00 P.M., the father of the prosecutrix/victim attempted to rape the wife of the revisionist/convict; that, when the matter was raised, the prosecutrix/victim and her family members allegedly



threatened the family of the revisionist/convict.

He would further submit that a complaint in this regard was filed on 21.01.2018 by the wife of the revisionist/convict; that, when no action was taken by the concerned police, the complaint was sent to the Senior Superintendent of Police, Udham Singh Nagar, via speed post on 23.03.2018, but, when no FIR was registered by the police authorities, a complaint case dated 23.03.2018 was subsequently filed in the court of the learned Magistrate, Udham Singh Nagar.

He would further submit that there is no medical report of the prosecutrix (PW1) on record. Additionally, according to the site plan (Exhibit P3), the location of the alleged sexual assault, where the prosecutrix was allegedly grabbed, is marked as Point A, which is situated near the check post and not near Gandhi Bhawan, as previously claimed.

12. Learned State Counsel vehemently opposed the revision, contending that judicious scrutiny of the judgments of both the trial court and the sessions court reveals no illegality, incorrectness, impropriety in judgments or any irregularity in the proceedings of the trial court and the appellate Court. Therefore, there is no occasion to interfere with the impugned judgments.

Learned State Counsel would submit that, upon scrutiny, the statements of the prosecutrix/PW1 clearly establish the charges against the revisionist, and there is no reason to doubt the credibility of her testimony.

13. Heard learned counsel for the parties and perused the record in view of the submissions made by



them.

14. The submission of learned counsel for the revisionist/convict is that there was enmity between the families, and that the case was registered by the prosecutrix/victim at the instance of her family members in order to shield her father, who had allegedly attempted to rape the wife of the revisionist/convict. However, this allegation is unfounded and a sheer fabrication, as it has not been substantiated by any evidence on record.

Though, learned counsel for the revisionist/convict would draw the attention of the Court to the cross examination of the prosecutrix/victim wherein it was stated that a criminal case had been filed by the wife of the revisionist/convict against the father of the prosecutrix/victim, however, this was only brought up as a suggestion during cross-examination and it was not formally put to the victim or any other prosecution witness like the mother, sister, or brother of the prosecutrix/victim. It is also pertinent to mention that this complaint case was not proved by evidence by revisionist/convict. Merely, putting a suggestion about some fact and denial in cross examination does not make that fact in suggestion relevant.

The defence merely submitted photocopies of complaints related to that criminal case during the trial but these documents were not proven in court and the official records were also not summoned in the trial court, therefore, merely filing of photocopies of said complaint case in the trial court in defence without



proving them shall not make the ground that the whole story of the prosecution and the testimony of the prosecutrix is unworthy, incredible and unbelievable.

15. The learned counsel for the revisionist/convict would fairly concede that the first complaint that allegedly was sent to the Station House Officer (S.H.O.) on 21.01.2019 does not have any stamp of receiving by the police station. If this complaint was sent by speed post, as submitted by the learned counsel for the revisionist/convict, this was not proved in trial court.

It is also noteworthy that the complaint case by the wife of the revisionist/convict was allegedly filed only on 23.03.2018, i.e. approximately one and a half months after the incident in question that led to the conviction of the revisionist. In these circumstances, only logical conclusion is that the complaint filed by the wife of the revisionist/convict was nothing but an unsuccessful attempt by the revisionist/convict and his family members to exert pressure and blackmail the prosecutrix/victim and her family member with the ulterior motive of coercing her to withdraw her complaint.

16. A perusal of the evidence of PW1, the prosecutrix/victim, shows that her testimony before the trial court, given on oath, is not only credible, trustworthy, and believable, but also remained unrebutted and unimpeached during cross-examination. Furthermore, the testimony of PW6, Beena Patalia, the Assistant Warden of the Pantnagar Hostel, strongly corroborates both the prosecution's



case and the testimony of the prosecutrix/victim.

17. In the site plan, it is evident that Point A, where the first incident of sexual assault occurred (where the accused/revisionist allegedly grabbed the prosecutrix), is located right in front of Gandhi Bhawan. The accused then dragged the prosecutrix behind the check post, as per the details in the case.

18. The fact that the medical officer who medically examined the prosecutrix was not examined during the trial is not fatal to the prosecution's case. This is because the statement of the prosecutrix (PW1) is strongly corroborated by the testimonies of PW2, PW3, PW4, and particularly PW6 Beena Patalia, who was the Assistant Warden. Their consistent accounts leave no reasonable doubt about the credibility of the prosecutrix's testimony.

Moreover, the injuries sustained by the prosecutrix/victim were not of such a serious nature that would necessitate repeated hospital visits or prolonged treatment. This is not even the case made by the accused/revisionist himself. Therefore, the judgments of both the Trial Court and the First Appellate Court are based on a sound evaluation of facts, witness testimony, and law, and there is no legal or procedural error that would warrant interference by the revisional court.

19. It is trite that the scope of jurisdiction of revision is not as vast as that of appeal. The revisional court has a limited scope. In the revisional jurisdiction, the Court has simply to see whether there is any illegality, impropriety or incorrectness in the order



assailed before the Court, or any irregularity in the proceedings adopted by the courts below.

20. It is common knowledge that there is sharp decline in the moral standards in society. The migration from native places and settling at new places has taken away the fear of social sanctions and being proscribed in society. The sexual offences against women and children are on the rise. Therefore, the gender-related offences must be addressed with heightened sensitivity.

21. In India, the sexual offences have become very common, emerging as one of the most alarming forms of criminal activity. It is a heinous crime that deeply affects not only the victim but also the broader fabric of society. The rising number of attempted rape cases reported on a regular basis raises serious concerns about the safety and security of women in the country. Hardly a day passes without news of such incidents, which underscores the urgent need for stronger preventive measures. Although women make up half of the world's population, they have historically been subjected to various forms of control, violence, and subjugation at the hands of their male counterparts.

Even from ancient times, our tradition has honored women in every aspect of life, with a special reverence for the worship of the mother. Both spiritual life and social service have always been open to women, who have, throughout history, demonstrated dynamic energy, sincere devotion, and dedicated service. Indian aesthetics, philosophy, and tradition have long celebrated the diverse qualities of women. The



refinement of both men and women over time marks the true essence of civilization. In Indian culture womanhood has always been venerated. It is common knowledge, that, in Ancient Indian Literature of all Indic languages, the women were addressed as “*Devi*” means Goddess. It is also notable that most of the names of women in Indian are suffixed by word “*Devi*”. In Southern part of India, the women names are, at times, suffixed by word “*Amma*” which means mother. In ancient India jurisprudence as codified in manusmiriti, one of the most frequently cited verses that shows reverence toward women is:

यत्र नार्यस्तु पुज्यन्ते रमन्ते तत्र देवताः ।

यत्रैतास्तु न पूज्यन्ते सर्वासतत्राफलाः क्रियाः ।। मनुस्मृति ।। 3/56 ।।

“Where women are honoured there the Gods rejoice and where they are not honoured, all works become fruitless.”

But it seems the revisionist/convict has no reverence for social norms, moral standards, and law of the land. His act is reprehensible, hence, should be dealt without any leniency.

22. Perusal of the impugned judgment of the court below shows that the court has dealt with all the aspects of the matter and has thereafter passed the impugned judgment.

23. Learned counsel for the revisionist could not point out any irregularity in the proceedings of the lower court or any impropriety, illegality and incorrectness in the impugned orders.

24. In view of the foregoing discussion, this Court is of the view that there is no reason to make any interference in the impugned judgment and order. The



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revision deserves to be dismissed at the admission stage.

25. Accordingly, the revision is hereby dismissed *in limine*.

26. Let a copy of this order be sent to the trial court for information.

(Vivek Bharti Sharma, J.)

30.04.2025

Mamta