



2025:AHC:181480

Neutral Citation No. - 2025:AHC:181480**Reserved On:- 22.09.2025****Delivered On:- 13.10.2025**

Case :- CRIMINAL REVISION No. - 2660 of 2024

Revisionist :- X Juvenile

Opposite Party :- State of U.P. and 3 Others

Counsel for Revisionist :- Babu Lal Ram

Counsel for Opposite Party :- G.A., Sanjay Kumar

Hon'ble Siddharth, J.

1. Heard Sri Babu Lal Ram, learned counsel for the revisionist; Sri Sanjay Kumar, learned counsel for opposite party no. 4; learned A.G.A for the State-respondents and perused the trial court record.
2. The present criminal revision has been preferred against the judgment and order dated 16.12.2023 passed by Additional Special Judge POCSO Act/ Additional Sessions Judge, Court No. 13, Kanpur Nagar, in Criminal Appeal No.53 of 2023 under section 101 Juvenile Justice Care & Protection of children 2015 (alleged juvenile Vs. State of U.P.) as well as against the Judgment and Order dated 29.04.2023 passed by Juvenile Justice Board, Kanpur Nagar in Case No. 61 of 2022 (State Vs. Deva @ Devan) in Case Crime No.18 of 2022 under section 376(2) (N), 504, 506 IPC and 3 (ii) Scheduled Caste and Scheduled Tribes Act and section 5 (M)/6 POSCO Act, police station Juhi, District Kanpur Nagar.
3. The prosecution case is that on 21.02.2023 the minor daughter of

the informant aged about 6 years was taken inside the house by the revisionist on the pretext of giving her toffee and chocolate. Inside the house, the revisionist is alleged to have disrobed the minor daughter of informant and inserted his private part in her mouth and tried to commit the offence of rape against her. The daughter of the informant informed that the revisionist after removing her underwear tried to commit the offence of rape against her. He had committed such act against her earlier also and when the informant went to make complaint of the revisionist at his house, he was threatened of life by the revisionist and his family members.

4. To prove the prosecution case the prosecution examined P.W.-1, Kapil; P.W.-2, Arti; P.W.-3, Manoram; P.W.-4, Mahi Gautam (child victim); P.W.-5, Dr. Piyusha Pankaj; P.W.-6, Constable Poonam Yadav; P.W.-7, Alok Singh, Additional Superintendent of Police and P.W.-8, Santosh Singh, Additional Superintendent of Police.

5. Thereafter the statement of revisionist was recorded under Section 313 Cr.P.C wherein he denied the allegations made against him and claimed himself to be innocent. He further stated that there was dispute of his family with P.W.-3, Manorma. She is informer of police. She has got the false case registered against the revisionist only to get the compensation from the government.

6. Three documents were filed in evidence by the defense side.

7. P.W.-1 and P.W.-2 proved before the court the F.I.R version of incident and admitted that they have not seen the incident. They got information from P.W.-3 about the incident. P.W.-2 stated that only after coming to know of the incident from P.W.-3, Manorma, she asked the child victim and then she repeated the same allegations before P.W.-2, her

mother. P.W.-2 admitted in her cross-examination that on 21.02.2022 (i.e., date of incident). The child victim, P.W.-4, took Rs. 5/- from the revisionist and came back after half an hour. Thereafter, she started playing and did not informed her anything. At 4:00 p.m., P.W.-3, Manorma, came and informed that she had seen the incident in dispute being committed by the revisionist from her own eyes. She admitted that had Manorma not informed her about the incident. She would never had known about the same.

8. P.W.-3, Manorma, stated that she has a general merchant shop where revisionist came to get change of Rs. 100/-. At that time the child victim, P.W.-4, had came to her shop for purchasing toffee and biscuit. The revisionist put his hands on the shoulder of child victim and asked her to accompany him to his house. The child victim threw his hands off her shoulder and stated that she will not go to his house since he will do the same thing as he did on earlier occasion. Due to suspicion, she inquired from child victim about what happened earlier. With great difficulty she informed her that the revisionist took her inside his house and after making her stand on a bed removed her clothes and put his private part in her mouth. Thereafter informed her mother, P.W.-2 about the incident. Her statements were also recorded before the Investigating Officer under Section 161 Cr.P.C. She admitted that in her statement before the Investigating Officer, she did not informed that the revisionist uttered caste related abuses against P.W.-1 and P.W.-2, father and mother, respectively of the child victim.

9. P.W.-4, Child victim, stated that she was taken to his house by the revisionist from shop of P.W.-3 and after making her stand on the bed and inserted his private part in her mouth. She has informed this incident to P.W.-3 and also to the Investigating Officer. In her cross-examination, she stated that she was made to stand on the bed while the revisionist was

standing on the ground, he did not removed her clothes. She denied that the mother and grand-mother of revisionist abused her father and mother when they went to make complaint of the revisionist.

10. P.W.-5, submitted that she prepared the medico-legal report of the child victim and got her ossification test conducted. She did not found any sign of sexual assault on the body of child victim. She stated that height of child victim was above 2-3 feet as per her estimation and if she was made to stand on a bed or mattress, her height will become 5.5 feet to 6 feet. She did not found any external or internal injury on the body of child victim.

11. P.W.5 and P.W.-6, were formal witnesses who proved the registration of F.I.R and its entry in general diary.

12. P.W.-7, proved that he conducted investigation of this case, recorded statements of witnesses and collected the medical evidence also. He further submitted that the clothes of child victim were not provided to him.

13. P.W.-8, another Investigating Officer, stated before the Court that the bed on which the child victim was made to stand was of normal height. In the statement of the informant, it has not been mentioned that the victim was made to stand on the bed by the revisionist and he was standing on the ground when the alleged offence was committed. The informant also did not state whether the revisionist was in a nude condition at the time of the incident. The Investigating Officer proved that he had prepared the site plan of the place of occurrence. He further admitted that the child victim had not informed him about any earlier incident committed by the revisionist against her.

14. Before the Juvenile Justice Board, an application given by the maternal grandmother of the revisionist to the District Magistrate, Kanpur

Nagar, on 19.02.2022, regarding a dispute over water from a submersible pump in the locality, was filed in evidence along with a photograph of the bed on which the child victim was allegedly made to stand. The said photograph was produced to demonstrate that if the victim were made to stand on the bed, her face would be slightly lower than that of the accused. The application dated 19.02.2022 bears the stamp of the dispatch section of the office of the District Magistrate, Kanpur Nagar. It appears that the court below has not made any effort to consider the defence evidence placed on record.

15. After going through the evidence on record, this Court finds that the trial court has relied solely upon the statement of the child victim and convicted the revisionist, treating him as an adult who has committed heinous offence and sentenced him to three years' detention in a special home. The Appellate Court affirmed the judgment and order of conviction and sentence of Juvenile Justice Board.

16. Learned counsel for the revisionist has submitted that it is a case of false implication of revisionist by P.W.-3, Manorma. He has submitted that only on the allurements of P.W.-3 that P.W.-1 and P.W.-2 will get Rs. 2,50,000/- if they lodge F.I.R against the revisionist, the revisionist was falsely implicated. P.W.-3 had dispute with maternal grand-mother, Anita, of the revisionist, earlier, which was the reason of false implication for the revisionist in this case. She informed P.W.-2 that earlier also the revisionist committed similar offence against the minor victim but the victim did not support the allegations of commission of any such offences earlier in her statement before the Investigating Officer. She clearly stated in her cross-examination before Board that prior to the incident in dispute no wrong was committed against her by the revisionist.

17. Learned counsel for the revisionist has submitted that before both

the courts below argument was raised on behalf of the revisionist that the manner of incident, as alleged in the statement of P.W.-3 and P.W.-4, is not possible. He has submitted that if one 2.5-3 feet child is made to stand on a bed of one feet height then she will reach the height of about 4 feet and revisionist aged about 13 years, standing on the ground cannot make his private part reach the height of 4 feet or 3.5 feet in height after standing on the floor. Since his torso will not reach the height of 3.5-4 feet. Both the courts below have not addressed this argument and have only stated that the statement of the child victim is sufficient to convict and uphold the conviction and sentence of revisionist. The law is well settled that solitary statement of child victim is sufficient to convict an accused regarding the commission of sexual offence against the child victim, but the courts have repeatedly held that such a statement should be truthful, inspiring confidence of the court and of sterling quality. In this case, from the manner of incident alleged by the prosecution, the incident does not seems possible. There is no evidence of committing any offence under the alleged provisions of SC/ST Act.

18. Further argument is that the false implication of revisionist was made only to get compensation from state government is also not without substance. Number of cases of sexual assault / abuses are lodged to get compensation from state government in the State of Uttar Pradesh and this may be one of such case.

19. Keeping in view the totality of facts and circumstances of this case, this court is not satisfied that the prosecution proved its case beyond reasonable doubt stated above. Revisionist has already served more than half of the sentence awarded to him.

20. The judgment and order of conviction and sentence passed against the revisionist by the courts below are set aside.

21. The criminal revision stands ***allowed.***
22. Let the trial court record be returned within a week.

Order Date :- 13.10.2025

Rohit