



2025:AHC:175324

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 4735 of 2024

Badri Prasad And Others

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Revisionist(s)	:	Vijayendra Kumar, Vivek Pandey
Counsel for Opposite Party(s)	:	G.A., Shiv Sagar Singh

Court No. - 93

HON'BLE HARVIR SINGH, J.

1. Heard learned counsel for the revisionists, learned counsel for the opposite party no. 2, learned A.G.A. for the State and perused the record.

2. The instant revision has been filed against the order dated 7.5.2024 passed by Additional District and Sessions Judge, Fast Track Court-I, Banda in Session Trial No. 261 of 2023 (State of U.P. vs. Badri and others), arising out of Case Crime No. 158 of 2020, under Sections 452, 323, 504, 506 and 308 I.P.C., by which the discharge application 8Kha, under Section 227 Cr.P.C. moved by the revisionist has been dismissed.

3. Learned counsel for the revisionists has submitted that, so far as Section 308 I.P.C. is concerned, no case is made out against the revisionist, as no fracture was found in the head, as a result of the x-Ray report prepared by the concerned doctor. He next submitted that the revisionist got lodged an FIR bearing No. 159 of 2020, alleging therein, that the said incident, which has taken place, has been shown to be at two different times by a gap of about one hour. Learned counsel submitted that no case under Section 308 I.P.C. has made out against the accused / revisionists.

4. On the other hand, learned counsel appearing on behalf of opposite party no. 2 has submitted that apart from the head injury, there is a deep muscle injury below the eye and therefor, looking at the gravity of the injury, the relevant sections be slapped against the revisionists. He further submitted that as far as the injuries and other evidence are concerned, it is a matter of trial, which cannot be looked into the stage of framing of charge or deciding the application for discharge and prayed that the present revision is liable to

be dismissed.

5. Having considered the rival contentions, it is a matter of record and undisputed fact admitted by both the sides that two FIRs have been lodged, one against the revisionist, bearing no. 158 of 2020 and another by the revisionist, bearing no. 159 of 2020 in respect of relevant sections pertaining to some incident, by an large took place on the same date. However, some variations of time has been shown but the incident took place between same hours, i.e. during afternoon hours. It appears that, since there are allegations and counter allegations, as well as two FIRs have been lodged against the respective parties and therefore, it cannot be assumed that no incident has taken place at all, however going through the x-Ray report, no such fracture in the head has been found in the x-Ray report referred to and therefore, no case under Section 308 I.P.C. is made out against the revisionists.

6. Under the circumstances, learned Additional Sessions Judge, F.T.C., Court No. 1, Banda may proceed for framing of charge, if not yet framed. However no case is made out under Section 308 I.P.C. in respect of revisionists.

7. The present revision stands disposed of in terms of above.

September 26, 2025
Faridul

(Harvir Singh,J.)