



2026:AHC:205463

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 2268 of 2008

Hira Lal And Others

.....Revisionist(s)

Versus

State of U.P.

.....Opposite
Party(s)

Counsel for Revisionist(s)	:	Sriprakash Dwivedi
Counsel for Opposite Party(s)	:	Govt. Advocate

Court No. - 85

HON'BLE JAI KRISHNA UPADHYAY, J.

1. Heard Mr. Sriprakash Dwivedi, learned counsel for the revisionists and learned AGA for the State.

2. This criminal revision has been filed against the judgement and order dated 12.08.2008 passed by learned Additional Sessions Judge, Court No. 2, Mirzapur in Criminal Appeal No. 2 of 2008 (Hira Lal and others Vs. State) convicting and sentencing the appellants, under Sections 325/34 and 323/34 of IPC, arises out of the judgment and order dated 7.1.2008 passed by 5th Additional Civil Judge, (JD)/Judicial Magistrate, Mirzapur in Case No. 517 of 2007 (State Vs. Hira Lal and others) convicting the revisionists under Section 323/34 IPC, for six months imprisonment and fine of Rs. 500/- each, under Section 325/34 of IPC, for two years imprisonment and fine of Rs. 5000/- each, in case of default of payment of fine, they shall to undergo further six months imprisonment, and under Section 504 of IPC, for one year imprisonment and against such order the revisionists filed a Criminal Appeal No. 2 of 2008, which was dismissed vide order dated 12.08.2008 and confirmed the order passed by the trial Court.

3. The only submission on behalf of the revisionists is that for the offence under Section 325/34 I.P.C. the trial Court has imposed sentence upon accused-revisionists for two years out of which the revisionists have served more than six months and are suffering several ailments. It is also submitted that neither accused revisionists are habitual offenders nor were convicted in any other case. Thus, it was submitted by learned counsel for the accused-revisionists that sentence awarded by the trial Court vide impugned

judgment and order be modified and accused-revisionists be released in this matter on the basis of imprisonment already undergone. It is next submitted that if any fine would be imposed by the Court, revisionists are ready to deposit the same.

4. On the other hand, learned A.G.A. supporting the findings recorded by trial Courts in the impugned judgments and order submitted that there is no infirmity or illegality in the impugned judgements and orders. Prosecution has proved its case beyond reasonable doubt. The trial Court has awarded sentence to the revisionists according to the gravity of the offence committed by them.

5. I have considered rival submissions made by learned counsel for the parties and have gone through the entire record carefully.

6. Since learned counsel for the accused revisionists did not challenge the findings recorded by trial Court in the impugned judgment and order regarding guilt of accused-revisionists for the alleged offences and confined his argument only to the sentence awarded by trial Court to accused-revisionists, I do not propose to scrutinize the entire evidence minutely in this regard. However, a perusal of entire record including the impugned judgment and order shows that trial Court has considered in detail the entire evidence available on record regarding guilt of accused-revisionists for the said offences and keeping in view the offence committed by accused-revisionist, I am also of the opinion that prosecution was able to establish the guilt of accused-revisionist for the aforesaid offences beyond reasonable doubt. The findings recorded by the trial Court to constitute offence under Sections 323/34, 325/34 and 504 I.P.C. against accused-revisionists are correct and the same do not warrant interference by this Court.

7. So far as the question of sentence is concerned, it is a well settled principle that sentence must be just and should simultaneously follow the principle of proportionality between the crime and the punishment. Punishment cannot be totally brushed aside. The principle of just punishment is the bedrock of sentencing in respect of a criminal offence. A punishment should not be disproportionately excessive. The concept of proportionality allows a significant discretion to the court but the same has to be guided by certain principles. In certain cases, the nature of culpability, the antecedents of the accused, manner of assault, the factum of age, the

potentiality of the convict to become a criminal in future, capability of his reformation and to lead an acceptable life in the prevalent milieu, the effect - propensity to become a social threat or nuisance, and sometimes lapse of time in the commission of the crime and his conduct in the interregnum bearing in mind the nature of the offence, the relationship between the parties and attractability of the doctrine of bringing the convict to the valuebased social mainstream may be the guiding factors. Needless to emphasise, these are certain illustrative aspects put forth in a condensed manner.

8. It has been observed by the Apex Court that there can neither be a straitjacket formula nor a solvable theory in mathematical exactitude. It would be dependent on the facts of the case and rationalised judicial discretion. Neither the personal perception of a Judge nor selfadhered moralistic vision nor hypothetical apprehensions should be allowed to have any play. For every offence, a drastic measure cannot be thought of. Similarly, an offender cannot be allowed to be treated with leniency solely on the ground of discretion vested in a court. The real requisite is to weigh the circumstances in which the crime has been committed and other concomitant factors which have been indicated hereinbefore and also have been stated in a number of pronouncements by Apex Court. On such touchstone, the sentences are to be imposed. The discretion should not be in the realm of fancy. It should be embedded in the conceptual essence of just punishment. A court, while imposing sentence, has to keep in view the various complex matters in mind. In respect of certain offences, sentence can be reduced by giving adequate special reasons but the special reasons have to rest on real special circumstances.

9. In the instant case, it has been more than 28 years since the alleged incident took place. Accused-revisionists alone cannot be held responsible for long delay in disposal of this case. Revisionists are not previous convict. Revisionists were on bail during trial of the case as well as during the pendency of the criminal appeal before the appellate court and they had never misused the liberty of bail granted to them. It was stated that accused-revisionists remained in custody for more than six months and are suffering from several ailments. Considering all aspects of the matter, no useful purpose would be served by sending accused-revisionists to judicial custody at this stage, rather it would be appropriate that sentence of three years imprisonment awarded by the lower appellate Court be reduced to the period

already undergone by them along with fine of Rs. 20,000/- each.

10. Accordingly, this criminal revision is **partly allowed** and the sentence awarded by the lower appellate Court is hereby reduced to the period already undergone by the revisionists along with fine of Rs.20,000/- each. Their personal and surety bonds are cancelled and sureties are discharged. The accused-revisionists are directed to deposit fine of Rs. 20,000/- each within two months from today. In default of payment of fine, accused-revisionists shall undergo imprisonment of three months.

11. A copy of this order be transmitted to the court concerned.

September 30, 2026
S.K.S.

(Jai Krishna Upadhyay,J.)