

Court No. - 78

Case :- CRIMINAL REVISION No. - 165 of 2023

Revisionist :- X- Juvenile

Opposite Party :- State of U.P. and Another

Counsel for Revisionist :- Anupama Singh, Archana Singh, Mandeep Singh, Shailesh Kumar Pandey

Counsel for Opposite Party :- Ali Hasan, G.A., Nisar Ahmed

Hon'ble Samit Gopal, J.

1. List revised.
2. Heard Sri Virendra Singh, learned counsel for the revisionist, Sri Ali Hasan and Sri Nisar Ahmad, learned counsel for the opposite party no.2, Sri Ajay Singh, learned A.G.A.-I for the State and perused the material on record.
3. The present revision under Section 397/401 Cr.P.C read with Section 102 of Juvenile Justice (Care and Protection of Children) Act, 2015 has been preferred by the revisionist-X (Juvenile) against the judgement and order dated 22.11.2022, passed by Addl. Sessions Judge/Special Judge (POCSO Act), Bulandshahar in Criminal Appeal No.199 of 2022 (Lalit Kumar Vs. State of U.P. and another) filed against the order dated 12.09.2022 passed by Juvenile Justice Board in Misc. Case No.134 of 2022, arising out of Case Crime No.786 of 2021, u/s 354, 302 IPC and Section 3(2)5 of SC/ST Act, P.S. Jahangirabad, District Bulandshahar by which bail application as well as appeal of the revisionist has been rejected by both the courts concerned.
4. In compliance of order dated 1.2.2024, a report of learned District and Sessions Judge concerned has been placed on record by the office through its office report dated 12.4.2024. Perusal of which goes to show that Additional District and Sessions Judge/Special Judge (POCSO Act) at Bulandshahar and the District Judge, Bulandshahar vide their reports dated 4.4.2024 have stated that the accused is being tried as a juvenile as per the Juvenile Justice Act.
5. The FIR of the matter was lodged on 15.12.2021 by Praveen against the revisionist alleging therein that on 15.12.2021 at about 3 p.m., Smt. Rajwati had gone to her field to cut fodder and was working there wherein the revisionist reached there and with an ill-intention enraged her modesty and on resentment by Smt. Rajwati, he snatched a darati which was in her hand and cut her neck with it. On shouts Praveen S/o Smt. Rajwati reached there and found his mother in a pool of blood and saw the revisionist holding the weapon who then while flashing it, ran away. The incident is of 15.12.2021 of about 4 p.m. The postmortem of the deceased was

done on 18.12.2021 wherein the doctor found an open wound over anterior aspect of neck oval in shape with two stitches and tracheostomy wound was also present. The cause of death was opined as septicemia as a result of ante-mortem injury.

6. Learned counsel for the revisionist submitted that the revisionist has been falsely implicated in the present case. It is submitted that the revisionist is a juvenile. It is submitted that the prosecution story is false inasmuch as the weapon of assault was found near the place of occurrence and hence the prosecution story that the revisionist while flashing the weapon ran away is false. He has placed before the Court the recovery memo with regards to the same. It is submitted that the deceased was given medical treatment for three days and then she died. It is submitted that charge sheet in the matter has been submitted which is annexure no.10 to the affidavit filed in support of revision. It is argued that the revisionist has no criminal history. The revisionist is in jail since 19.12.2021. Hence present revision deserves to be allowed.

7. Per contra, learned counsel for the opposite party no.2 as well as learned counsel for the State opposed the prayer for bail in the present revision and submitted that the revisionist is named in the FIR and has been assigned the specific role of assault upon the deceased. The medical examination corroborates with the prosecution story. It is submitted that the weapon of assault was recovered from the place of occurrence and use of the same is also corroborated by the nature of injury. There are eye-witnesses of the incident. The revisionist was aware of the consequences of the act done by him and as such present revision lacks merit and deserves to be rejected.

8. After having heard learned counsel for the parties and perusing the records, it is evident that the revisionist is named in the FIR and has been assigned the specific role of assault upon the deceased with a darati. The medical examination report corroborates with the prosecution story. The weapon of assault has also been recovered. The revisionist is of such age and mentality that he is very well aware of the act done by him and the consequences of it. The incident is grievous in nature.

9. In view of the above, the present revision is hereby **rejected**.

(Samit Gopal, J.)

Order Date :- 4.2.2025
Gaurav Kuls