

Court No. - 49

Case :- CRIMINAL REVISION No. - 2102 of 2023

Revisionist :- Kamlesh Paswan And 6 Others

Opposite Party :- State of U.P.

Counsel for Revisionist :- Atul Kumar Shahi

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Misra,J.

Order on the Memo of Revision

Heard Mr. Anoop Trivedi, the learned Senior Counsel assisted by Mr. Atul Kumar Shahi, the learned counsel for revisionists and the learned AGA for the State.

Admit.

Summon the lower court record.

Order on the Application for Suspension of Sentence

Heard Mr. Anoop Trivedi, the learned Senior Counsel assisted by Mr. Atul Kumar Shahi, the learned counsel for revisionists and the learned AGA for the State.

Record shows that the revisionists-applicants has been convicted and sentenced vide judgment and order dated 26.11.2022, passed by the Additional Civil Judge (Civil Division), IInd/ Additional Chief Judicial Magistrate, District- Gorakhpur in Criminal Case No. 382 of 2008 arising out of Case Crime No. 22 of 2008, under Sections 147, 341, 435, 511 I.P.C. and Section 7 of Criminal Law Amendment Act, Police Station- Gulriha, District- Gorakhpur.

Feeling aggrieved by above judgment and order, revisionists-applicants preferred an appeal before the Sessions Judge-Gorakhpur. The same was registered as Criminal Appeal No. 35 of 2023 (State of U.P. vs. Kamlesh Paswan and Others). The aforesaid appeal came to be dismissed vide judgment and order dated 10.04.2023. However, court below granted 15 days time to the revisionists-applicants to appear before court below which time period is expiring today i.e. 24.04.2023.

The learned Senior Counsel appearing for revisionists-applicants submits that revisionists-applicants have been convicted and

sentenced under Sections 147, 341, 435, 511 I.P.C. and Section 7 of Criminal Law Amendment Act, Police Station- Gulriha, District- Gorakhpur. They have accordingly been sentenced to one year imprisonment along with fine of Rs. 500/- each, under Section 147 I.P.C., one month imprisonment along with fine of Rs. 250/- each, under Section 341 I.P.C., one year and six months imprisonment along with fine of Rs. 500/- each, under Section 435/511 I.P.C. and three months simple imprisonment along with fine of Rs. 250/- each, under Section 7 of Criminal Law Amendment Act. In case of default in each of the payment of fine, applicants-revisionists shall undergo 20 days additional imprisonment.

The impugned judgment and order passed by the trial court further records that all the sentences are to run concurrently.

Learned Senior Counsel for revisionists-applicants submits that maximum sentence awarded to the revisionists-applicants is one year and six months. He then submits that offence complained of is private in nature and not a crime against the society. There is no likelihood of the revision being heard in the near future. He further submits that except for revisionist-applicant-1 Kamlesh Paswan, all other revisionist-applicants have no criminal antecedents to their credit except the present one. Revisionist-applicant, Kamlesh Paswan has one criminal case registered against him which has been duly explained. Referring to the impugned judgment passed by courts below, he submits that the findings on the basis of which conviction and sentence has been awarded, are neither cogent nor sustainable in the light of the evidence on record. It is, thus, urged that both the courts below have committed a jurisdictional error in passing the impugned judgments and orders. He, therefore, submits that revisionist-applicants be enlarged on bail during the pendency of the present criminal revision. In case, applicant-revisionists are enlarged on bail, they shall not misuse the liberty of bail.

Per contra, the learned AGA has opposed the prayer for bail. He submits that since revisionists-applicants have been convicted by both the courts below, therefore, they do not deserve any indulgence by this Court. Prima- facie the impugned judgment and order is sustainable in law. However, the learned AGA could not dislodge the factual/legal submissions urged by the learned Senior Counsel at this stage with reference to the record.

Having heard, the learned senior counsel for applicants-revisionists, the learned A.G.A. for State and upon perusal of

material brought on record as well as the complicity of revisionists-applicants, accusation made coupled with the fact that the crime alleged to have been committed by revisionists-applicants is private in nature and not a crime against society, the maximum sentence awarded to the revisionists-applicants is one year and six months, there is no likelihood of the revision being heard in near future but without making any comments on the merits of the revision, revisionist-applicants have made out a case for bail.

Let the revisionists-applicants, be released on bail on them furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned.

Considering the facts that revisionist-applicant-1 Kamlesh Paswan is a sitting M.P. and the judgments and orders impugned in present criminal revision, will cast a stigma upon his political career, as such they have serious consequences. The consequences are of unverifiable character. Considering the above as well as the judgment of the Supreme Court in *Navjot Singh Siddhu Vs. State of Punjab, 2007 Volume II SCC 574*, it is, hereby, provided that the sentence awarded to revisionist-applicant-1 shall remain stayed during the pendency of the revision. It is, however, provided that the fine awarded by court below shall be deposited by each of the applicants-revisionists within one month from today, failing which the applicants-revisionists shall be censured and applicants-revisionists shall be taken into custody forthwith to serve out the sentence accorded to them.

Order Date :- 24.4.2023

Mohini