

Court No. - 93

Case :- CRIMINAL REVISION No. - 484 of 2002

Revisionist :- State of U.P.

Opposite Party :- Swami Sachichidanand Har Sakchhi And Others

Counsel for Revisionist :- A.G.A.

Counsel for Opposite Party :- Vipin Kumar

Hon'ble Shamim Ahmed,J.

Heard Shri Abhishek Shukla, the learned A.G.A.-I for the State-revisionist and Shri Vipin Kumar, the learned counsel for the opposite party Nos. 1, 4, 5 and 6.

None has appeared on behalf of opposite party No. 3 despite service of notice which was served personally upon him.

As per the office report, the Chief Judicial Magistrate, Mainpuri vide its report dated 24.01.2020 informed that the opposite party No. 2- Arjun Singh, has expired ten years back.

This revision has been filed on behalf of State challenging the order dated 26.11.2001 passed by learned Special Judge (D.A.A.), Etah in S. S. T. No. 97 of 2001, State Vs. Swami Sachchidanand Har Sakshi and Five Others, arising out of Case Crime No. 499 of 2000, Police Station Kotwali Nagar, District Etah, discharging the opposite parties from the charge under Sections 149, 366, 342, 392, 376, 506 I.P.C.

Learned A.G.A.-I submits that the informant-Smt. Savitri Devi filed an application before the Police Station Kotwali Nagar, District Etah against all the opposite parties with the allegation that the opposite party No. 1, Swami Sacchidanand Har Sakcchi kidnapped her from a medical clinic along with his associates and bodyguards and committed rape with her in Udaitpur Ashram and also assaulted her, thereafter, other associates of opposite party No. 1 also committed rape with her continuously for nine days. Several other allegations were also levelled against the opposite

parties for obtaining signature on agreement etc. Thereafter an F.I.R. was lodged at Police Station Kotwali Nagar, District Etah which was registered as Case Crime No. 499 of 2000, under Sections 364, 342, 376, 384, 506 I.P.C. After investigation the police has submitted its charge sheet against all the accused persons, the opposite parties herein under Sections 149, 366, 342, 392, 376, 506 I.P.C. The accused opposite parties filed an application No. 28-B with the prayer that they may be discharged from the charge framed against them as no case is made out against them and they have been falsely implicated in the present case by the informant-Smt. Savitri Devi.

Learned A.G.A.-I further submits that on the aforesaid application moved on behalf of accused opposite parties, the learned trial court after hearing D.G.C.(Criminal) and the learned counsel for the accused opposite parties, has discharged the accused opposite parties by passing the impugned order which is under challenge.

Learned A.G.A.-I further submits that while passing the impugned order the learned trial court has committed error by not considering the statements of the victim recorded under Section 161 and 164 Cr.P.C. The learned trial court has also committed error of law by placing reliance on the affidavit filed subsequently by the informant which was in contradiction of her earlier statements recorded under Section 161 and 164 Cr.P.C. which might have been obtained under threat and pressure.

Shri Vipin Kumar, the learned counsel for the opposite parties submits that the learned trial court has committed no error in passing the impugned order. Once the informant has filed an affidavit which was in contradiction of her earlier statements recorded under Sections 161 and 164 Cr.P.C. nor any evidence was available on record regarding the charges, the learned trial court has no option but to discharge the accused opposite parties against the charges, therefore, there is no illegality or infirmity in the impugned order dated 26.11.2001.

After considering the arguments advanced by the

learned counsel for the parties and after considering the impugned order dated 26.11.2001 passed by the trial court and also after perusal of record of the court below, this Court is of the opinion that the learned trial court in its judgment has observed that during investigation there was no evidence found regarding robbery of Kisan Vikas Patra and further, there was no evidence found that the signature was forcibly obtained on the agreement by the accused persons from the informant.

The learned trial court further found that regarding allegation of assault and rape made by the informant allegedly committed by the accused persons, the informant has not produced any medical evidence. Even regarding allegation of kidnapping of informant from clinic of Dr. Natthu Singh Baghel was not found true as the said doctor in his statement recorded under Section 161 Cr.P.C. has denied that such incident was took place in his clinic. The witnesses of the alleged kidnapping, who were produced by the police as eye witnesses, have not named the accused opposite parties. There was no identification parade of the accused persons, nor any allegation was made specifically against the opposite party No. 1-Swami Sachichidanand Har Sakchhi.

The learned trial court further gave finding that regarding alleged incidents Circle Officer, Tundla, District Firozabad has conducted inquiry, in which all the allegations made by the victim were found false and were not supported with any cogent evidence.

The learned trial court has further recorded finding that from the perusal of record there is no evidence of allegation of kidnapping, loot or rape against the accused persons, consequently the accused persons were discharged from the allegations made against them by the trial court and a reasoned and speaking order was passed after considering the material on record.

In view of above, there appears no illegality or infirmity in the impugned order dated 26.11.2001 passed by the trial court, therefore, the order

under challenge needs no interference by this Court and thus, the present revision is liable to be dismissed.

Accordingly, the present revision is dismissed.

Interim order, if any, stands vacated.

Let a copy of this order be sent to the concerned District and Sessions Judge for its onwards transmission to the concerned court.

Let the lower court record, if any, be returned back to the court concerned.

The file is consigned to record.

Order Date :- 14.3.2022

Mustaqeem.