
(2014) 03 AHC CK 0228
In the Allahabad High Court
Case No : Criminal Revision No. 704 of 2014

Rahul Tewari

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 24-03-2014

Acts Referred:

Penal Code, 1860 (IPC) — Section 302, 323, 324, 325, 374
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3(2)(v)

Citation : (2014) 86 ALLCC 780

Hon'ble Judges : Karuna Nand Bajpayee, J

Bench : Single Bench

Advocate : Raj Kumar Sharma, Advocate for the Appellant

Judgement

Karuna Nand Bajpayee, J.—This revision has been filed challenging the validity of Judgment and order dated 10.01.2014 passed by learned Additional District & Sessions Judge, Court No. 14, Allahabad in Criminal Appeal No. 218 of 2013 (Smt. Shashi Khan Tewari v. State of U.P.) whereby order dated 27.8.2013 passed in Criminal Case No. 56 of 2013 (State of U.P. v. Rahul Tewari) u/s 377, 374, 324, 323, 504, 506 I.P.C. & 3(2)(v) SC/ST Act, Police Station-Khuldabad, Allahabad has been affirmed. Supplementary affidavit filed by the learned Counsel for the revisionist has been taken on record.

2. Heard Shri Raj Kumar Sharma, learned Counsel for the revisionist and also learned A.G.A. Record has been perused.

3. It seems that a bail application with regard to Rahul Tewari, juvenile in conflict with law, was moved on his behalf by his father in relation to the offences u/s 377, 374, 324, 323, 504, 506 I.P.C. and also u/s 3(2)(v) SC/ST Act with regard to Case Crime No. 56 of 2013. The Juvenile Justice Board after hearing the parties and after observing due procedure of law did not deem it fit to release him on bail and as a result thereof the aforesaid bail application was rejected. Aggrieved by the said order of rejection an appeal was filed but there too it did

not bear any fruit for the accused-revisionist and the same stood dismissed by the Appellate Court. Subsequent to this dismissal, present revision has been preferred assailing the validity of the aforesaid twin orders.

4. Contention of the Counsel for the revisionist is that despite the detention of the revisionist, he got exposed to the company of bad elements and the atmosphere of the Juvenile home is not conducive to the best of his interest and therefore his release on bail should have been a better course. It is on this ground that the order rejecting the bail application has been assailed before this Court by the Counsel.

5. In rebuttal the learned A.G.A. has submitted that the revisionist seems to be a habitual offender and a person of extreme criminal proclivities. He was already detained under the charge of 302 I.P.C. but during the same detention period he committed the offences under sections 377, 374, 325, 323, 504, 506 I.P.C. and also the offence u/s 3(2)(v) SC/ST Act. The allegations and the material available against the revisionist was such that, according to learned A.G.A., his release will not only endanger himself and expose him towards degeneration but even the society at large shall also be at peril. For a delinquent like the one at hand his detention is the only right course. It is on this ground that the validity of the impugned orders have been sought to be vindicated by the Counsel for the State.

6. I have heard both the sides and carefully perused the record. It appears that initially on 27.8.2013 the Juvenile Board after going into the matter in detail has taken into account the fact that even during the period of his detention the revisionist has indulged himself in several crimes which are alleged to have been committed against his fellow detainees. The Board has also taken into account the gravity of the present charge in question and also the physical and psychological deleterious influences to which the juvenile accused was very likely to be exposed in case of his release. In the view of the Juvenile Board the very purpose to preserve the interest of juvenile in conflict with law was likely to be defeated in the event of his release on bail. It is also clear that subsequently when the appeal was filed against the aforesaid order the Appellate Court also has well analyzed the matter and has taken into account the circumstance that the revisionist in association with one Sandeep Ojha, Manish, Rahul Tiwari and Akash Ojha has indulged into the acts of sodomy a number of times and has also indulged in making assault on the victim Jai Prakash Sonkar. The Appellate Court has also reckoned with the fact that the Probation Officer too in his report had apprised the Juvenile Home that the revisionist has indulged himself in very objectionable activities and there is a lot of resentment because of the same. The fact that at the time of commission of the offences in question he was already facing the charge of murder has also been duly considered. The Appellate Court did not find any fault with the initial order dated 27.8.2013 passed by the Board and affirmed the same while dismissing the appeal filed on behalf of revisionist-accused.

7. Learned Counsel for the revisionist could not point out any such illegality,

impropriety or error on the basis of which impugned order may be assailed or faulted with. This Court is also of the view that the release of the revisionist shall further imperil his future and he and his career may completely get lost beyond the point of redemption in case he is allowed to go free unbridled and untrammelled by any rules of discipline.

8. This Court does not feel persuaded to interfere in the impugned order in any manner whatsoever.

9. Revision being sans merit stands dismissed.

10. It is true that the circumstances and the ambience of the protective abode where the juveniles have been kept, as have surfaced up before the Court from the record, leaves much to be desired. It is a matter of grave concern and is so upsetting to know that those who were kept in the shelter could remain so unprotected and a juvenile of criminal propensities could prey upon the fellow adolescent detainees with impunity. The rationale of the principles which has inspired the legislation with regard to juveniles contemplates a preferential protective treatment to them in many ways but that does not imply or rule out the possibility that there may be extremely dangerous juveniles also who because of their own individual criminal, psychological aberrations may be a social menace and may need very sensitive handling to protect their own interest as well as the interest of those with whom they are likely to interact. The incharge of the protective homes may be held answerable for gross dereliction of duty if they do not take adequate steps and foolproof measures to ensure that the detainees under various charges and coming from different backgrounds behave or conduct themselves in an acceptable manner and which must not be dangerous or even objectionable to the fellow detainees. Let a copy of this order be also sent to the District Magistrate, Allahabad to take adequate steps in order to ensure that the incident of the kind as has been reported in this matter may not recur.