



2026:AHC:183407

HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION No. - 1890 of 2024

Saroj Kumar Singh

.....Revisionist(s)

Versus

State of U.P. and Another

.....Opposite
Party(s)

Counsel for Revisionist(s) : Rajeev Chaddha, Rakesh Kumar
Srivastava

Counsel for Opposite Party(s) : G.A., Ravindra Prakash Srivastava

Court No. - 92

HON'BLE MRS. VANI RANJAN AGRAWAL, J.

1. Heard Sri Rakesh Kumar Srivastava, learned counsel for the revisionist and Sri Ravindra Prakash Srivastava, learned counsel for the opposite party and Sri Rahul Asthana, learned A.G.A. for the State respondent.

2. The present revision has been preferred against the orders dated 21.03.2024 and 13.03.2024, passed by the learned Special Judge (M.P./M.L.A.)/VII Additional District and Session Judge, Basti in Session Trial No.871 of 2023 (State vs. Saroj Kumar Singh and Ors.), arising out of Case Crime No.11 of 1997, under Section 304, 330, 342, 217, 218, 120-B, 34 I.P.C., Police Station, Paikoliya, District Basti, whereby the application moved by the revisionist under Section 227 Cr.P.C. seeking discharge was rejected and the case was directed to proceed for framing of charges. The revisionist has also challenged the subsequent order dated 13.03.2024, whereby charges were framed against the accused persons including the revisionist Saroj Kumar Singh.

3. It has been submitted on behalf of the revisionist that the order dated 13.03.2024 has been passed merely on the basis of a finding that *prima facie* case is made out against the revisionist, without properly considering the material available on record. The said finding is contrary to the evidence and material collected during investigation.

4. It is submitted that after completion of the investigation, the police

submitted a final report dated 26.4.1997. The said final report was accepted by the learned Magistrate by order dated 20.1.2000. No protest petition was filed against the acceptance of the final report. It is further submitted that after about seven days after the order accepting the final report, the C.B.C.I.D. moved an application before the Court seeking the entire case diary which had already been submitted along with the final report. However, the learned Magistrate did not pass any order permitting further investigation nor there was any order passed directing the case be handed over to the C.B.C.I.D. for further investigation. In the aforesaid circumstances, it is contended that the subsequent investigation conducted by the C.B.C.I.D. was without any lawful authorization and was not permissible in the absence of an appropriate order of the learned Magistrate permitting further investigation under Section 173(8) Cr.P.C. Consequently, the charge-sheet submitted, thereafter, by the C.B.C.I.D. could not, by itself, have been made the basis for proceeding against the revisionist without first examining the legality and evidentiary validity of the investigation conducted by the C.B.C.I.D.

5. It is further submitted that the entire material available on record merely establishes that a special team was constituted on 10.01.1997. The revisionist was posted as Station House Officer of Police Station Nagar and was directed to assist the members of the team in discharge of their official duties. Furthermore, there is also no specific overt act attributed to him in connection with the alleged offence.

6. It is contended that the learned trial Court has failed to examine this crucial aspect while rejecting the discharge application. It has also been argued that medical evidence does not support the prosecution case. The injuries found on the body of the deceased were not, according to the medical opinion, sufficient in themselves to cause death. The doctor had specifically opined that none of the injury found on the body was sufficient to cause death in the ordinary course.

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7. The viscera of the deceased was also preserved and examined, but no poisonous substance was detected therein. The post mortem report further indicates that the deceased had been suffering from tuberculosis for several years. Dr. Shivdhani Prasad Gupta in his statement recorded by the C.B.C.I.D. also stated that the deceased had been undergoing treatment at the District TB Hospital. It was further stated that lungs of the deceased were congested and infected. According to the revisionist, the possibility that the plea existing tuberculosis and lungs infection and related medical condition might have caused the death, was a relevant circumstance which require proper consideration, but the learned trial Court failed to consider the same.

8. It is further submitted that the charge sheet submitted by the C.B.C.I.D. against the members of special team namely 'Operation Shark' appears to have been prepared in a mechanical manner without undertaking an effective and individualistic approach regarding the actual role played by each member of the squad and no material had been brought on record to establish the individual involvement of the revisionist in the alleged offence. Reliance has been placed upon the service record of the revisionist and it is submitted that throughout his entire career in service, there has been no complaint against him and he has never been found guilty of any misconduct or criminal activity. It is contended that he has been falsely implicated despite there being no material establishing his participation in the alleged occurrence.

9. It is, therefore, submitted that the continuance of the criminal proceedings against the revisionist, in the absence of legally admissible and sufficient material connecting him with the alleged offence, would amount to an abuse of the process of law and would also offend the constitutional guarantee under Article 21 of the Constitution of India.

10. On the aforesaid ground it has been prayed that the revision be allowed and the orders dated 21.03.2024 and 13.03.2024 passed by the learned trial Court be set aside and the revisionist be discharged from the proceedings and the consequential proceedings against him be quashed.

11. Learned A.G.A on the other hand has opposed the revision and submitted that at the stage of framing of charge, the Court is not required to conduct a meticulous appreciation of the evidence. It is argued that the material collected during investigation including the statement of the witness and the surrounding circumstances were sufficient to justify the continuance of proceeding against the revisionist.

12. This Court has considered the rival submissions and has carefully perused the case diary and the material placed on record.

13. It is well settled that, at the stage of considering an application for discharge or framing of charge, the Court is not required to undertake a roving or meticulous examination of the evidence, as would be undertaken at the stage of trial. Nevertheless, the Court is required to examine whether the material collected during the investigation discloses a *prima facie* case or, at the very least, gives rise to a strong suspicion against the accused connecting him with the commission of the alleged offence. Mere presence at the place of occurrence or official association with the police team, in the absence of any material connecting the accused with the alleged criminal act, cannot, by itself, justify the framing of a charge.

14. In the present case, the statement of Mahesh Kumar, complainant assumes considerable significance as he is admittedly the brother of the deceased and he was projected as a principle eye witnesses to the event preceding the death of Dilip Kumar. His statement has been recorded during trial and significantly the role of assault was specifically attributed to Sub Inspector Hariram Verma and the three constables.

15. In his statement recorded under Section 161 Cr.P.C., Mahesh Kumar has stated that Sub Inspector Hariram Verma and three constables took Dilip Kumar inside the room, closed the door and assaulted him. He has further stated that the cries of his brother emanated from inside. However, there is no specific allegation in the said statement attributing any assault to Dilip Kumar.

16. The distinction assumes significance in light of the official record

concerning the constitution of the "Operation Shark" team. The order issued by the Superintendent of Police, Basti, dated 11.01.1997, indicates that Sub-Inspector Hariram Verma, Police Lines, District Basti, was appointed as the In-charge of the team, and four constables were directed to be attached to it. The revisionist was not designated as a member of the said team. The material placed before this Court indicates that the revisionist, who was posted as the Station House Officer of Police Station Nagar, was merely directed to assist the said team.

17. Thus, the mere fact that the revisionist in his official capacity as Station House Officer of Police Station Nagar was present or associated with the police proceedings cannot by itself furnish sufficient basis for attributing to him the act of assault upon the deceased. More importantly, the prosecution's own principle eye witness does not attribute any overt act or role of assault to the revisionist.

18. It is also noteworthy that the prosecution case itself attribute the actual role of assault to Sub Inspector Hariram Verma and three constables and the revisionist has not been assigned any specific role in taking the deceased inside the room assaulting or participating in the alleged occurrence. It is also significant to note that the revisionist was not a member of the 'Operation Shark' team and his role was confined only to assist the members of the team in discharge of their official duties. There is no specific allegation or evidence indicating that the revisionist himself caused any injury to the deceased or otherwise participated in the assault upon him. No overt act has been attributed to him in relation to causing injury which ultimately resulted in the death of the deceased.

19. The mere fact that the revisionist was the Station House Officer of Police Station Sant Kabir Nagar and that the police proceeded to Bhabhnan Chouki during the relevant period, give rise to a strong suspicion of his participation in the assault, and therefore, criminal liability cannot be fastened on him merely on the basis of his official designation or supervisory role in the absence of material showing participation, abatement, conspiracy or any

other legally cognizable offence.

20. The prosecution has relied upon the fact that the revisionist was connected with the police operation in question. However, the official order produced before this Court materially distinguishes his position from that of the personnel constituting the "Operation Shark" team. The order specifically designates Sub-Inspector Hariram Verma as the In-charge of the team and provides for four constables to work under his direction. The revisionist does not figure as a member of the said team, and his role was confined to extending assistance to it. Such official association, by itself, cannot be equated with participation in the alleged assault.

21. This Court is conscious that, at the stage of framing of charge, the defence of the accused is ordinarily not to be examined in the same manner as it would be at the stage of evidence or trial. However, the prosecution material, even if taken at its face value, does not attribute any specific act to the accused, and the surrounding documentary material substantially negates the role alleged against him, compelling him to face a criminal trial merely on the basis of his official designation would not advance the cause of justice.

22. Upon an overall assessment available in the case diary, this Court finds that the principle eye witness had not attributed any specific overt act to the present revisionist. The official order does not show him to be a member of the 'Operation Shark' team and medical evidence by itself cannot connect him with the alleged assault or death. The material therefore falls short threshold, required for framing of charge against the revisionist.

23. In these circumstances, the learned trial Court was not justified in rejecting the discharge application and proceedings to frame charge against him. The impugned orders in so far as they relates to the present revisionist cannot be sustained.

24. In view of the above, the present criminal revision is allowed. The impugned orders dated 21.03.2024 dated 13.03.2024, passed by the learned Special Judge (M.P./M.L.A.)/7th Additional District and Session Judge,

Basti in Session Trial No.871 of 2023 (State vs. Saroj Kumar Singh and Ors.), arising out of Case Crime No.11 of 1997, under Section 304, 330, 342, 217, 218, 120-B and 34 I.P.C., Police Station, Paikoliya, District Basti, whereby the application moved by the revisionist under Section 227 Cr.P.C. seeking discharge, was rejected and the consequential order dated 21.03.2024 framing charges against the revisionist are set aside. The revisionist namely Saroj Kumar Singh is discharged from the proceedings in the present case.

25. It is clarified that this order is only confined to the role and liability of the present revisionist and shall not affect the proceedings of any other accused which shall proceed in accordance with the law. It is clarified that the observations made in this order are confined only with the respect to present revisionist and shall not construed as an expression of material regarding the guilt or innocence of any other accused.

August 19, 2026
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(Mrs. Vani Ranjan Agrawal,J.)