

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No.1179 OF 2025
(Arising out of SLP(Criminal) No. 3725 of 2023)

RAM KISHORE CHOWDHARY

Appellant(s)

VERSUS

STATE OF UTTAR PRADESH & ORS.

Respondent(s)

O R D E R

Leave granted.

Heard learned senior counsel appearing for the appellant, learned senior counsel appearing for the private respondents and the learned counsel appearing for the first respondent-State.

The private respondents were acquitted by the judgment and order dated 13.02.2008 passed by the Sessions Court for the offences punishable under Sections 147, 148, 323, 324/149, 325/149, 452/149, 427/149, 435/149, 307/149, 302/149, 504/149 and 506/149 of the Indian Penal Code. A revision application under Section 401 read with Section 397 of the Code of Criminal Procedure, 1973 (for short, "the CrPC") was filed at the instance of the appellant who was the first informant. By the impugned order dated 12.05.2022, the revision application has been dismissed. Paragraphs 6 to 11 of the impugned judgment are as under:-

6. The incident of this case took place on 6.7.2000. 22 years have gone by since the date of incident and in the meantime, during the pendency of this revision, three accused-respondents had

died.

7. On 21.9.2021, learned counsel for accused-respondents sought adjournment on the ground of his ill health and the case was directed to be listed on 6.10.2021. On 20.4.2022, counsel for the revisionist sought adjournment on the ground of ill health and, therefore, the case was directed to be listed after two weeks peremptorily. Today, again when the case is listed, learned counsel for the revisionist has sought adjournment on the ground of his ill health.

8. Thus, from the facts as stated above, it appears that though learned counsel for the accused-respondents has been unwilling to argue the matter, but the learned counsel for the revisionist has also not made sincere efforts to prosecute the case and he has also sought adjournment after adjournment on one pretext or the other.

9. Be that as it may, as the matter is listed peremptorily today, this Court will not accommodate the request of learned counsel for the revisionist to adjourn the case and has proceeded to decide the matter with the assistance of Sri J.P. Rai, learned AGA and Sri Vivek Shrotria, learned counsel for the accused-respondents.

10. Learned trial court after considering the prosecution case, evidence brought on record and, submissions of the prosecution and the defence, did not find the charge against the accused-respondents proved under Sections 147, 148, 323, 324/149, 325/149, 452/149, 427/149, 435/149, 307/149, 302/149, 504/149 and 506/149

IPC and acquitted all the accused-respondents.

11. This Court has perused the impugned judgment and order carefully and is of the opinion that the view taken by the trial court is not perverse. The impugned judgment and order does not suffer from any error or law or evidence. The view taken by the trial court is a plausible view and, therefore, considering the scope of revisional jurisdiction under Section 397 read with Section 401 Cr.PC., this Court does not deem it appropriate to interfere with the impugned judgment and order taking into consideration that the incident of the year 200 and now we are in 2022."

Firstly, the Court cannot blame only the litigant, if revision application filed in the year 2008 remained pending till the year 2022. The Court has noted that on 21.09.2021, the counsel for the private respondents sought adjournment on the ground of ill health. On 20.04.2022, the counsel for the appellant sought adjournment on the ground of ill health and again on 12.05.2022 counsel for the appellant sought adjournment on the ground of ill health. In view of these facts, the observations made in paragraph 8 were uncalled for.

From the impugned judgment, it is apparent that the High Court did not peruse the record of the Trial Court and therefore, the evidence adduced by the prosecution was not examined by the High Court.

Since, it was a revision application under Section 401 of the CrPC, in a given case, in absence of the revision petitioner, the High Court could have decided the case on merits but only after

examining the record of the Trial Court with the assistance of the government advocate who was present before the Court. Unfortunately, the High Court has recorded that only the impugned judgment and order was perused. The scope of revision application against the order of acquittal is limited, but still it was the duty of the revisional court to examine the record of the Trial Court.

We disapprove the manner in which the revision application has been decided and therefore, the only option left open is to restore the revision application before the High Court and direct the High Court to rehear the same.

Accordingly, the impugned order dated 12.05.2022 is hereby set aside and Criminal revision application no. 118/2008 is restored to the file of the High Court of Allahabad, Lucknow Bench.

The restored revision application shall be listed before the Roster Bench of the Lucknow Bench on 28.03.2025 in the morning when the parties which are represented today shall be under an obligation to appear and no further notice of the date fixed shall be served upon them.

A copy of this order shall be forwarded by the Registry to the Registrar(Judicial) of High Court of Allahabad at Lucknow Bench who shall ensure that the restored petition is listed before the Roster Bench, as directed above.

If the record of the Trial Court is already not called for, the High Court shall call for the record. All contentions are left open to be decided by the High Court in restored revision application.

Considering the fact that the incident is of the year 2000 and the revision is of the year 2008, the High Court may consider of giving necessary priority for the disposal of the revision application.

The appeal is partly allowed in above terms.

.....J.
(ABHAY S. OKA)

.....J.
(NONGMEIKAPAM KOTISWAR SINGH)

New Delhi
5 March, 2025

ITEM NO.10

COURT NO.4

SECTION II

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

PETITION(S) FOR SPECIAL LEAVE TO APPEAL(CRL.) NO(S). 3725/2023

[Arising out of impugned final judgment and order dated 12-05-2022 in CRR No. 118/2008 passed by the High Court of Judicature at Allahabad, Lucknow Bench]

RAM KISHORE CHOWDHARY

Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH & ORS.

Respondent(s)

(IA Nos. 193069/2022 and 223890/2023 - EXEMPTION FROM FILING O.T.)

Date : 05-03-2025 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA

HON'BLE MR. JUSTICE NONGMEIKAPAM KOTISWAR SINGH

For Petitioner(s): Mr. Pradeep Rai, Sr. Adv.
Ms. Shreya Smirti, Adv.
Ms. Monika, Adv.
Mr. Haraprasad Sahu, Adv.
Mrs. Anita Sahu, Adv.
Mr. Pranaya Kumar Mohapatra, AOR

For Respondent(s): Mr. Ajay Prajapati, Adv.
Mr. Namit Saxena, AOR
Mr. Rishabh Gautam, Adv.

Mr. Gaurav Bhatia, Sr. Adv.
Mr. Joy Banerjee, Adv.
Mr. Himanshu Shekhar Tripathi, AOR
Mr. Utkarsh Jaiswal, Adv.
Mr. Vikas Tiwari, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is partly allowed in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

(SNEHA)

SENIOR PERSONAL ASSISTANT

(AVGV RAMU)

COURT MASTER (NSH)

(Signed order is placed on the file.)