

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.1706 OF 2022
(Arising out of SLP (Cr1.) No.6535 of 2022)

RITU RAI

Appellant

VERSUS

STATE OF UTTAR PRADESH & ANR.

Respondent(s)

O R D E R

Leave granted.

This appeal challenges the judgment and order dated 18.04.2022 passed by the High Court of Judicature at Allahabad in Application moved under Section 482 of the Code of Criminal Procedure, 1973 being No.19717 of 2021.

The appellant is the informant at whose instance Crime No.1592 of 2016 was registered at Police Station Sihani Gate, Ghaziabad, Uttar Pradesh, against respondent no.2, for the offences punishable under Sections 328, 376, 504, 506 of the Indian Penal Code, 1860.

After cognizance having been taken by the Trial Court, Criminal Case No.192 of 2019 is presently pending.

During the pendency of the trial, application Exh. 61Kha was moved on behalf of the appellant praying that Principal/In-Charge/concerned Officer of Kendriya Vidyalaya No.4 DLW Campus, Varanasi be summoned to testify about the veracity of Class-X mark-sheet of the appellant. The attempt was thus to prove the age of

the appellant which would have certain bearing upon the kind of offence which, if proved, would be said to have been committed.

The application was accepted by the Trial Court as a result of which the concerned person was summoned as a witness and the document was placed on record. It may be noted here that the Admit Card issued by the Examining Authority was already on record and as a result of this exercise, mark-sheet of the appellant also got produced on record.

In the meantime, the order passed by the Trial Court accepting the application preferred by the appellant was under challenge in Application No.19717 of 2021 at the instance of accused/respondent no.2 herein. By order presently under challenge, the High Court accepted the submissions advanced on behalf of the accused and was pleased to set-aside the order passed by the Trial Court.

The result thus is that though the document is on record after the person was duly examined as a witness, the order on the basis of which the document was placed on record, now stands set-aside.

Having considered the matter carefully, in our view, the application preferred by the appellant was rightly allowed by the Trial Court and there was no occasion for the High Court to set-aside the order passed by the Trial Court.

We, therefore, allow this appeal; set-aside the view taken by the High Court and restore the order dated 12.11.2021 passed by the Trial Court in connection with Application Exh. No.61Kha in Criminal Case No.192 of 2019.

With these observations, the appeal is allowed.

.....CJI.
(UDAY UMESH LALIT)

.....J.
(J.B. PARDIWALA)

New Delhi,
September 29, 2022