

CRIMINAL  
SIDE

2262/19  
D.S.  
(3)

4010  
260376

PC-12

IN THE HIGH COURT OF JUDICATURE  
AT ALLAHABAD  
LETTER FORWARDING COPY OF  
COURT'S JUDGEMENT OR ORDER  
(Chapter XVIII, Rule 43 or 44)

Shamlihu Khan  
District P. & A. Officer, Lucknow

dated \_\_\_\_\_ the Allahabad day of \_\_\_\_\_ 20  
Lucknow

The SESSIONS JUDGE OF 9435  
Baranilly 17-3-16

Appeal \_\_\_\_\_  
Revision \_\_\_\_\_ No. 4732/16  
Reference \_\_\_\_\_  
Miscellaneous \_\_\_\_\_

Sir, Devd-18-2-16  
I am directed to forward for your information and communication to the parties a copy of the Court's Order in the case noted on the margin. An extra copy of the Court's Order is also enclosed herewith for communication to the Magistrate concerned through the District Magistrate of \_\_\_\_\_  
I am to request you to report to this Court as soon as the order has been noted and complied with by all concerned.

*Handwritten notes:*  
sent 4. 21. P.C. 15  
for information  
& necessary action  
JUS  
2613  
Recd. & at the  
Dist. Magistrate  
H.C. No. 33/12

Yours Faithfully  
*[Signature]*  
Deputy Registrar

For: [Signature]  
4/3/16 P.T.O.

Recd. Teleprinted copy  
H.C. No. date-18-2-16

Criminal Appeal no. 33/2012.  
Case No 703/07  
Case Crime no. 346/1999,  
Under Section 380, 411 IPC,  
Police Station Deorania,  
District Bareilly.

IN THE HON'BLE HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION (AGAINST CONVICTION) No. 173 OF. 2016.  
(Under Section 397/401 Cr.P.C)

(DISTRICT:: BAREILLY)

Shambhu Khan son of Umrawali Khan,  
Resident of village Thiria Kalyanpur  
Police Station Deorania,  
District Bareilly.

----- Revisionist.

(In Jail since 1.2.2016)

Versus

State of U.P.

2. Thakurdas son of Tula Ram  
Resident of Village Thiria P. S. Deorania,  
District Bareilly.

----- Opp. Parties.

This is first Criminal Revision against the impugned judgment and order dated 30.1.2016 passed by Ld. Addl. Session Judge/Spl. Judge (Anti Corruption) Court no. 2, Bareilly (Mr. S.K. Singh HJS) in Cr. Appeal no. 33/12, Shambhu Khan Versus State of U.P. thereby dismissing the appeal preferred against the impugned Judgment and order dated 25.1.2012 passed by Ld. J.M. Baheri, Bareilly in

14/03/16

Court No. - 53

Case :- CRIMINAL REVISION No. - 473 of 2016

Revisionist :- Shamfatu Khan

Opposite Party :- State Of U.P. And Anr.

Counsel for Revisionist :- Ashay Raj Singh

Counsel for Opposite Party :- G.A.

**Hon'ble Ramesh Sinha, J.**

Heard Sri A.R. Singh, learned counsel for the revisionist and Sri Sanjay Tripathi, learned A.G.A. for the State.

The present crl. revision has been preferred against the judgment and order dated 30.1.2016 passed by Additional Sessions Judge/Special Judge (Anti Corruption) Court No. 2, Bareilly in crl. appeal no. 33 of 2012 dismissing the appeal preferred against the judgment and order dated 25.1.2012 passed by Judicial Magistrate, Baberi, Bareilly in case no. 703 of 2007 convicting and sentencing the revisionist under section 380 I.P.C. to undergo one year R.I. with a fine of Rs. 1,000/- and in default of payment of fine 15 days additional imprisonment.

With the consent of learned counsel for the parties, the present revision is being decided on the question of sentence only.

It has been contended by the learned counsel for the revisionist that maximum sentence provided to the revisionist is one year for offence under Section 380 I.P.C. The rest of the sentence of the revisionist be reduced to a fine and the same shall not be treated as enhancement of the sentence. The revisionist is in jail since 1.2.2016.

Learned A.G.A. opposed the prayer for quashing of the impugned order and has submitted that the lower appellate court has rightly passed the impugned judgment and order after considering the evidence before it, hence no interference is called for by this Court and the revision is liable to be dismissed.

I have perused the impugned judgment and orders as well as record and in my opinion the same do not suffer from any illegality, perversity or jurisdictional error which may call for any interference by this Court, hence the conviction and sentence of the revisionist is hereby upheld. But taking in account of the fact that revisionist has already undergone sufficient period in jail as under trial and after conviction by the lower appellate court, his rest of the sentence be reduced to a fine.

Accordingly, revisionist is directed to pay and deposit fine of Rs. 20,000/- in the court of C.J.M. concerned out of which Rs. 15,000/- shall be paid to the informant-P.W. 1 Thakur Das and 5,000/- shall go to the State. If the revisionist deposits the aforesaid amount of fine, he shall be released forthwith if not wanted in any other case.

In default of the fine as directed above, the revisionist shall serve out the sentence as awarded by the courts below.

In view of the above, the revision is partly allowed.

Office is directed to send a certified copy of this order to C.J.M., concerned for its compliance. *Sd/- Ramesh Sinha, J.*

Order Date :- 18.2.2016

Shiraz

**TRUE COPY**

*SK [Signature]*

Section Officer

Copying (15) Department

High Court, Allahabad

*Copy to  
14/03/16*

14/3/16