

(Through online webportal)

Date : 16 June 2023

From,

Pawan Sharma,

Additional District Judge,

Special Court (POCSO),

Sultanpur.

To,

The Registrar (Confidential),

High Court Judicature at Prayagraj,

Prayagraj.

Subject : Representation against the remarks given in annual confidential remarks (ACR) regarding the quality of judgement.

Respected Sir,

1. State vs Suraj Saroj and others, Session trial No. 133/2019 was disposed of on 03.06.22. Both the accused were acquitted. State (prosecution) filed an appeal against acquittal u/s 378. The appeal was dismissed by the Hon'ble division bench at the admission stage. Application u/s 378 No. 90 of 2022 (Lucknow Bench).

2. State vs Hanumat, Spt No. 136/2020 and State vs Shiv Chandar, Spt No. 1316 of 2021 have been disposed of on 19.05.2023 and on 15.04.2023 i.e. after 31, March 2023 in this current year. The annual assessment was to be done for the work done by the judicial officer starting from 1st April 2022 till 31st March 2023 (last year). The respected district judge has travelled beyond the assessment year and picked these two judgements for the reason best known to him. No application or any complain regarding these two judgements has been made till date.

3. Similarly, the other two cases referred in the remarks State vs Sajan (appeal pending for admission likely to be listed in July 2023) and St vs Santosh Kumar (no appeal filed by the state against acquittal) were based on romantic relations. The accused's defence counsel has managed to establish doubts about the certificate age of victims during cross-examination. Considering the same, the benefit of the doubt regarding the age was extended to them and the accused were acquitted.

4. The analysis of evidence in each trial has been given after going through the cross-examination and the contradictions found in the statements of victims. The defence counsel has cross-examined the witnesses and has successfully established that the victim's date of birth in the school record was entered on the basis of memory without any concrete evidence. The findings and reasonings have been supported by the Hon'ble High Court and Supreme Court case laws. The assumptions and presumptions referred in the remarks of Ld. District Judge have been provided in Evidence Act quoted under various sections which include 'Section 114 Evidence Act' and they are not based on my personal thinking. Every case has its own facts and circumstances and has to be decided according to the evidence present on record.

5. The learned District Judge has not gone through any of the cross-examinations of the mentioned cases and the remarks are given solely on the basis of chief evidence of witnesses. Similarly in Civil Appeal 156/2011 Jamuna Prasad vs Jagdatt, disposed on 02.02.2023 the points of determination have been framed in paragraph no. 7 of judgement. The comment mentioned in para 9 of the report of l'd District Judge is not true. The analysis of evidence is also mentioned in para 8, 9 of the judgement.

6. Every Judge has his own writing style. There is no strict format for writing a judgement. The writing style of a judgement develops with years of practice and experience. I am not a pro-prosecution to convict every accused nor pro defence to acquit every accused. On the basis of evidence, judgements are done. One may or may not agree with my judgement writing pattern but this does not mean that my judgements are not sound. The remarks of the learned district judge are mentally forcing me to convict every accused irrespective of the cross-examination.

7. I have disposed of 202 cases in the year 2022-23 for which the assessment has been done. 97 cases have been convicted and 105 cases have been acquitted. No complain regarding judicial honesty or integrity has ever been raised, oral or written, nor even whispered in the entire service duration. The disposals have been done only on the basis of evidence and its proper appreciation. Out of 202 cases, the ACR remarks mentioned only three cases which are less than 2% of the entire disposal.

8. Out of 40 judicial officers posted in this Sultanpur district court, only my ACR report holds a lengthy analysis of the judgements and huge remarks were written. The analysis has not been done from the judgments self-submitted by me but from other cases. I was also removed from the post of Officer Incharge Nazarat, Member Infrastructure and other committees, within 10 days of L'd

District Judge taking in charge being the 3rd most senior Judicial Officers posted in District without any genuine reason and for the reason best known to respected district judge.

9. In the entire assessment period no notice or any D.O. letter has been ever issued to me by the learned district judge in any matter.

10. The remarks are derogatory for an officer who has worked extremely hard to dispose of a large number of cases. These kinds of remarks will lower my confidence as well as may affect my working in future. In the past four year assessments I have received 'very good' and 'outstanding' entries by the previous district judges. In the year 2021-22 I was presiding the same POCSO court and the previous learned district judge assessed my work as 'outstanding'. Surprisingly with the same nature of cases, the judicial officer has fallen down from 'outstanding' entry to 'good' entry.

11. It is my humble request to expunge the adverse remarks from the ACR and do a fair re-assessment of the entire judicial work done by me. Re-assessment will uplift my morality and will also help me in continuing my work with the same zeal.

Therefore you are humbly requested to place this representation before the hon'ble court for kind consideration.

Thanks in anticipation.

Pawan Sharma

Additional District Judge,

Sultanpur.