

AFR

Reserved on 14.5.2024

Delivered on 24.5.2024

Court No. 79

IN THE HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL REVISION NO. 159 of 2024

(Dr. Tanzeen Fatima Vs. State of U.P.)

And

CRIMINAL REVISION NO. 173 of 2024

(Mohammad Azam Khan Vs. State of U.P.)

And

CRIMINAL REVISION NO. 194 of 2024

(Mohammad Abdullah Azam Khan Vs. State of U.P.)

Revisionists through: Mr Imran Ullah, Mohammad Khalid,

Zubair Ahmad Khan

(Mr Kapil Sibal, learned Senior Advocate)

State through: J.K. Upadhyay, AGA,

(Mr. Ajay Kumar Mishra, learned Advocate General,

Mr. P.C. Srivastava, learned Additional Advocate General,

Mr. A.K. Sand, learned Government Advocate)

Complainant through: Mr. Sameer Srivastava, Sharad Sharma

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Hon'ble Sanjay Kumar Singh,J.

1. All the above captioned Criminal Revisions No. 159 of 2024, 173 of 2024 and 194 of 2024 under Section 397/401 of Code of Criminal Procedure have been preferred by the revisionists, namely Dr. Tanzeen Fatima, Mohammad Azam Khan and Mohammad

Abdullah Azam Khan against the judgment and order dated 23.12.2023 passed by learned Additional Sessions Judge / Special Judge (MP/MLA/E.C. Act), Rampur in Criminal Appeal No. 75 of 2023 (Dr. Tanzeen Fatima vs. State of U.P.), Criminal Appeal No. 76 of 2023 (Mohammad Abdullah Azam Khan vs. State of U.P.) and Criminal Appeal No. 77 of 2023 (Mohammad Azam Khan vs. State of U.P.) rejecting the appeals against the judgment and order dated 18.10.2023 passed by Trial Court / learned Special Judge (MP/MLA), ACJM-I, Rampur in Criminal Case No. 312 of 2022 (State of U.P. vs. Mohammad Azam Khan & Ors.) arising out of Case Crime No. 04 of 2019, under Sections 120-B, 420, 467, 468, 471 IPC, Police Station Ganj, District-Rampur, convicting and sentencing the accused-revisionists as under:

- (a) One year's simple imprisonment and fine of Rs. 5000/- for the offence under Section 120-B I.P.C. and in default of payment of fine, one month's additional simple imprisonment.
- (b) Three years' simple imprisonment and fine of Rs. 10,000/- for the offence under Section 420 I.P.C. and in default of payment of fine, six months' additional simple imprisonment.
- (c) Seven years' simple imprisonment and fine of Rs. 15,000/- for the offence under Section 467 IPC and in default of payment of fine, one year's additional simple imprisonment.
- (d) Three years' simple imprisonment and fine of Rs. 10,000/- for the offence under Section 468 IPC and in default of payment of fine, six months' additional simple imprisonment.

(e) Two years' simple imprisonment and fine of Rs. 10,000/- for the offence under Section 471 IPC and in default of payment of fine, three months' additional simple imprisonment.

2. However, all the sentences were directed to run concurrently.

3. Since all the revisionists namely Dr. Tanzeen Fatima, Mohammad Azam Khan and Mohammad Abdullah Azam Khan have been convicted and sentenced by common judgment and order dated 18.10.2023 and their separate Criminal Appeals No. 75 of 2023, 77 of 2023 and 76 of 2023 have also been decided by the common judgment and order dated 23.12.2023, therefore the issue with regard to interim relief as sought in all the three Criminal Revisions are heard and being decided together.

Interim relief

4. In all the above mentioned Criminal Revisions, interim relief has been sought to suspend the execution of the sentence dated 18.10.2023 as affirmed by the order dated 23.12.2023 and enlarge the revisionists on bail during pendency of the above mentioned criminal revisions.

5. In addition to above, three separate applications all bearing Application No.1 dated 23.02.2024 U/s 389(1) r/w 397/401 Cr.P.C. have also been filed in the above mentioned Criminal Revisions with a prayer to stay the impugned judgment and order dated 18.10.2023 of conviction as affirmed by appellate Court vide its judgment and order dated 23.12.2023 during the pendency of the above Criminal Revisions.

Brief Facts

6. The prosecution case is that on the written complaint dated 17.12.2018 of complainant /informant Akash Saxena, Regional Convener, Bhartiya Janata Party Small Scale Industry Cell, West U.P., a first information report was registered on 03.01.2019 against Mohammad Azam Khan s/o late Mohammad Mumtaz Khan, Dr. Tanzeen Fatima w/o Mohammad Azam Khan, Mohammad Abdullah Azam Khan s/o Mohammad Azam Khan, all resident of Gher-Mir-Baaz Khan, P.S. Ganj District Rampur at Case Crime No. 4 of 2019, under Sections 193, 420, 467, 468 and 471 IPC at Police Station Ganj, District Rampur, wherein it is alleged that Mohammad Azam Khan and Dr. Tanzeen Fatima by forgery and hatching a well planned conspiracy for their personal gain got two birth certificates of their son Mohammad Abdullah Azam Khan issued from two places. The first birth certificate dated 28.06.2012 (Registration No. RNPB2012-03857) was issued from Municipal Corporation, Rampur on the basis of affidavits given by Mohammad Azam Khan and Dr. Tanzeen Fatima, in which place of birth is shown as Rampur. The second birth certificate dated 21.01.2015 (Registration No. NNLKO-B-2015-292611) was issued from Municipal Corporation, Lucknow on the basis of duplicate birth certificate, serial No. 781, dated 21.04.2015 issued by Queen Mary's Hospital, Lucknow, in which place of birth is shown as Lucknow. The first birth certificate issued by Municipal Corporation, Rampur was used by Mohammad Abdullah Azam Khan in preparing his passport etc. and he travelled abroad by wrongly using it. The second birth certificate issued by Municipal Corporation, Lucknow was used in government documents and several degrees of Jauhar University. Both the birth certificates

were made and used by Mohammad Azam Khan, Dr. Tanzeen Fatima and Mohammad Abdullah Azam Khan for their personal gain by forgery and well planned conspiracy.

7. After culmination of the investigation, Investigating Officer submitted Charge sheet No. 196 of 2019 dated 01.04.2019 (Ext. Ka-69) under Sections 420, 467, 468, 471 IPC against Mohammad Azam Khan, Dr. Tanzeen Fatima and Mohammad Abdullah Azam Khan.

8. When accused-revisionists moved discharge applications with a stand that there is no charge-sheet under Section 120-B I.P.C. against them, thereafter without any order for further investigation by the Trial Court, the supplementary charge sheet No. 196A of 2019 dated 10.08.2021 (Ext. Ka-70) under Section 120B IPC was filed on 11.08.2021 in the Trial Court and same was taken on record vide order dated 16.08.2021.

9. On 18.08.2021, charges were framed against the revisionists under Sections 120-B, 406, 420, 467, 468 and 471 IPC.

10. During the course of trial, following fifteen prosecution witnesses were produced to prove the charges against the revisionists :

(i) PW-1 Akash Kumar Saxena, first informant.

(ii) PW-2 Manoj Pathak, Principal of St. Paul School, Rampur.

(iii) PW-3 Tejpal Verma, the then Sub Registrar (Births and Deaths) Rampur.

(iv) PW-4 Vijay Kumar, the then Income Tax Officer, Rampur.

(v) PW-5 Mohd. Naseem, Passport Officer, Bareilly.

(vi) PW-6 Rai Singh, Pradhan Sahayak, District Election Office, Rampur.

(vii) PW-7 S.K. Rawat, Health Officer/Registrar (Birth and Death), Lucknow.

(viii) PW-8 Rishi Pal, the then Head Moharrir.

(ix) PW-9 Matloob Hussain, Fire Brigade Officer.

(x) PW-10 Gajendra Singh, Returning Officer.

(xi) PW-11 Mohd. Shaffiq, Proposer for Mohammad Abdullah Azam Khan in the nomination form Suar Assembly Election 2017.

(xii) PW-12 Mohd. Saleem, Record Keeper of Nagar Palika Parishad, Rampur.

(xiii) PW-13 Dinesh Kumar Goel, Proposer of Mohammad Abdullah Azam Khan in the nomination form for Suar Assembly Election 2017.

(xiv) PW-14 Narendra Tyagi, First Investigating Officer.

(xv) PW-15 Kishan Avatar, Second Investigating Officer.

11. Following nineteen persons were produced and examined as defence witnesses:-

(i) DW-1 Mohd. Zafaruddin @ Zafar Khan, Advocate.

(ii) DW-2 Zahid Khan.

(iii) DW-3 Akhilesh Kumar.

(iv) DW-4 Asim Khan.

(v) DW-5 Anwar Khan.

(vi) DW-6 Javed Khan.

- (vii) DW-7 Hargyan Singh.
- (viii) DW-8 Firasat Khan.
- (ix) DW-9 Khalid Ali.
- (x) DW-10 Abdul Karim Khan.
- (xi) DW-11 Tasleem Raza Khan, Videographer.
- (xii) DW-12 Farhan Ali Khan.
- (xiii) DW-13 Zameer Ahmed Khan.
- (xiv) DW-14 Mrs. Nikhat Akhlaque.
- (xv) DW-15 Mrs. Fareeda Sultana.
- (xvi) DW-16 Dilip Shankar Acharya, Expert.
- (xvii) DW-17 Dr. Ranjeet Kumar Singh, Expert
- (xviii) DW-18 Mrs. Tanveer Fatima.
- (xix) DW-19 Mohd Hamid.

12. As per paragraph No. 4 of the judgement of the Trial Court, on behalf of the prosecution, total seventy documents (Ext.1 to Ext.70) were produced and exhibited before the trial Court. During cross-examination of the prosecution witnesses total thirty seven documents were produced by the defence side and exhibited before the trial Court. On behalf of defence, total thirteen material exhibits were produced and exhibited as D-1 to D-13 before the trial Court.

Submissions on behalf of revisionists

13. Mr. Kapil Sibal, learned Senior Counsel for the revisionists, at the outset, primarily drawn the attention of this Court focusing on following six documents, namely :-

- i- F.I.R. dated 03.01.2019 (Exhibit Ka-61).
- ii- Birth certificate dated 28.06.2012 (Registration No. RNPB2012-03857) of Mohammad Abdullah Azam Khan issued by Nagar Palika Parishad, Rampur (Exhibit Ka-11).
- iii- Application dated 17.01.2015 (Exhibit Ka-55) and affidavit dated 17.01.2015 (Exhibit Ka-53) of revisionist-Dr. Tanzeen Fatima given before City Health Officer, Nagar Nigam Lucknow.
- iv- Birth certificate dated 21.01.2015 (Registration No.>NNLKO-B-2015-292611) (Exhibit Ka-59) of Mohammad Abdullah Azam Khan issued by Municipal Corporation, Lucknow.
- v- Duplicate Birth certificate, Serial No. 696 dated 29.01.2015 issued by Queen Mary's Hospital, Lucknow (Exhibit Ka-54).
- vi- Duplicate Birth certificate dated 21.04.2015, serial No. 718 (Ext. Kha-1/PW-7/10.11.2022) issued by Queen Mary's Hospital, Lucknow produced by PW-7 before the Trial Court.

14. Main substratum of argument of Mr. Kapil Sibal, learned Senior Counsel for the revisionists is that it is not a case of forgery or fabrication of any document on the part of the accused-revisionists. Even accepting the prosecution case for the sake of argument only, no offence is made out against Dr. Tanzeen Fatima, Mohammad Azam Khan and Mohammad Abdullah Azam Khan. Under the facts and circumstances of this case, criminal prosecution of the revisionists, which is based on malice is bad in law. The findings recorded by the Trial Court as well as Appellate Court are illegal and perverse on the face of record. Impugned judgment and orders dated 18.10.2023 and 23.12.2023 are in complete disregard to the provisions of Code of Criminal Procedure

and Indian Evidence Act, hence the same are not sustainable in the eye of law. Revisionists have been convicted on the basis of illegal presumption without any legal evidence sufficient to convict them. Both the courts below failed to appreciate that ingredients to constitute the offence punishable under Sections 120-B, 420, 467, 468 and 471 IPC are lacking in this case.

15. Mr. Kapil Sibal in order to strengthen his aforesaid submissions further argued that :-

15-1. Mohammad Abdullah Azam Khan was born in Queen Mary's Hospital, Lucknow on 30.09.1990, but at the initial stage, date of birth of Mohammad Abdullah Azam Khan was recorded in the concerned record of Nagar Palika Parishad, Rampur as 01.01.1993 and place of birth as Rampur on the basis of information given by the family friend of his father Mohammad Azam Khan.

15-2. The birth certificate dated 28.06.2012 (Registration No. RNPB2012-03857) of Mohammad Abdullah Azam Khan, in which his date of birth is recorded as 01.01.1993 and place of birth is recorded as Rampur shows that same was issued under Section 12/17 of the Registration of Births and Deaths Act 1969 and Rules 8/13 of the Uttar Pradesh Registration of Births and Deaths Rules, 2003 by the department of Health/ Nagar Palika Parishad, Rampur, as such birth certificate dated 28.06.2012 (Exhibit Ka-11) is neither a forged nor a fabricated document.

15-3. The first allegation of the complainant in the F.I.R. that the first birth certificate dated 28.06.2012 of Mohammad Abdullah Azam Khan was issued by Nagar Palika Parishad, Rampur on the basis of affidavits given by Mohammad Azam Khan and Dr. Tanzeen Fatima is completely false and against the evidence on

record. No affidavit was given by Mohammad Azam Khan and Dr. Tanzeen Fatima for issuance of first birth certificate dated 28.06.2012. Nothing is on record with regard to any kind of forgery or fabrication made by Mohammad Azam Khan and Dr. Tanzeen Fatima in issuance of birth certificate dated 28.06.2012 to Mohammad Abdullah Azam Khan. The prosecution could not prove the said allegation in accordance with law against them.

15-4. The second allegation against Mohammad Azam Khan and Dr. Tanzeen Fatima and Mohammad Abdullah Azam Khan are that they, for their personal gain, by forgery and well planned conspiracy, got issued second birth certificate dated 21.01.2015 of their son Mohammad Abdullah Azam Khan from Municipal Corporation, Lucknow on the basis of duplicate birth certificate, Serial No. 718, dated 21.04.2015 (Exhibit Kha-1/PW-7) issued by Queen Mary's Hospital, Lucknow, is also wrong and false allegation. In this regard, it is submitted that in fact Dr. Tanzeen Fatima moved an application dated 17.01.2015 (Exhibit Ka-55) along with her affidavit dated 17.01.2015 (Exhibit Ka-53) before City Health Officer, Nagar Nigam Lucknow for issuance of birth certificate of her son Mohammad Abdullah Azam Khan mentioning inter alia that Mohammad Abdullah Azam Khan was born on 30.09.1990 in Queen Mary's Hospital, Lucknow (King George University). There is an urgent need of birth certificate of my son and birth of my son can be confirmed from the records of Queen Mary's Hospital, Lucknow as required. Thereafter second birth certificate dated 21.01.2015 was issued by the Municipal Corporation, Lucknow after due verification of record in accordance with law.

15-5. It is also pointed out that no duplicate birth certificate of Queen Mary's Hospital, Lucknow, was filed along with application dated 17.01.2015 (Exhibit Ka-55) of Dr. Tanzeen Fatima. The birth certificate dated 29.01.2015 (Exhibit Ka-54) and 21.04.2015 (Exhibit Kha-1/PW-7/10.11.2022) Serial No. 718 of Queen Mary's Hospital, Lucknow are of later date of issuance of second birth certificate dated 21.01.2015, hence the case of the prosecution in F.I.R. that second birth certificate dated 21.01.2015 has been issued on the basis of birth certificate dated 21.04.2015 of Queen Mary's Hospital, Lucknow cannot be accepted. There is no forgery in the application and affidavit dated 17.01.2015 of Dr. Tanzeen Fatima.

15-6. Much emphasis has been given by contending that second birth certificate dated 21.01.2015 may be illegal or wrong for civil consequences, but cannot be said or treated as a forged document, because the same has been officially and validly issued following due procedure of law under the genuine seal and signature of officer competent to issue the same.

15-7. The revisionists are neither author of either of the birth certificates nor there is a charge that they interpolated or fabricated either of the birth certificates.

15-8. The prosecution has failed to establish that any kind of alleged forgery was committed by the revisionists in the process of obtaining birth certificate issued at Rampur or Lucknow.

15-9. The birth certificate would not fall within the definition of 'valuable security' as defined under Section 30 of IPC, hence, the ingredients of Sections 467 and 471 IPC are also not satisfied.

15-10. It is also submitted that if birth certificate dated 21.01.2015 is being treated as a forged document by the State government/prosecution, the appropriate legal action should have been taken under Section 23 of the Registration of Births and Deaths Act, 1969 against all the concerned officers and persons, who were involved in the process of issuance of said birth certificate dated 21.01.2015, but no action has been taken by the State against any authorities/officer concerned.

15-11. The issue involved in this case attracts the provisions of the the Registration of Births and Deaths Act, 1969, which is a Special Act. It is well settled that special law prevails over general law and things to be done in a particular manner can only be done in that manner, hence, under the facts of the case, the provisions of Indian Penal Code is not attracted against the revisionists.

15-12. If such kind of malicious criminal prosecutions are allowed, then lakhs of people of this country will be behind the bar in a civil wrong for no fault.

15-13. Mr. Sibal, learned Senior Counsel, stretching his argument further submits that it is not the case of the complainant that any of accused tried to deceive him and he has been cheated by them or he is victim of this case. There is no victim in the present case. The complainant has made complaint on his letter pad disclosing his identity as Convener, Small Scale Industries Cell, West U.P., Bhartiya Janata Party in order to mount pressure upon the administrative officers.

15-14. On the complaint dated 17.12.2018 of the complainant, F.I.R. (Ext. Kha-61) was lodged after 15 days on 3.01.2019 due to political malice.

15-15. In view of Section 39 Cr.P.C. applicant had no locus to lodge FIR under section 420 IPC as he is not a person deceived or victim.

15-16. It is simply a case of correction of date of birth of Mohammad Abdullah Azam Khan. No complaint was filed by Municipal Corporation, Lucknow regarding the birth certificate dated 21.01.2015.

15-17. The investigating officer did not record the statement under Section 161 Cr.P.C. of Rajeev Rajput, then Sub-Registrar of Births and Deaths of Municipal Council, Rampur who had prepared and issued Birth Certificate dated 28.06.2012. Even he was not produced by the prosecution before the trial Court. In this regard, it is further pointed out that though on the application under Section 311 Cr.P.C. of the prosecution, Rajeev Rajput was summoned, but later on prosecution moved another application for not summoning him as a prosecution witness therefore, trial court has withdrawn its previous order of summoning Rajeev Rajput. Similarly Dr. Uma of Queen Mary's Hospital, Lucknow was also summoned by the Trial Court, but subsequently at the request of prosecution, she was dropped.

15-18. Both the Courts below failed to consider that there was no motive or mens rea on the part of the revisionists to commit any offence. Even several documents, which have been exhibited, have not been properly marked.

15-19. Similarly, the Trial Court has also failed to appreciate the relevant evidence produced and proved as genuine by the revisionists. One such evidence is a video of a wedding attended by Mohammad Abdullah Azam Khan on 16.12.1990, which proves

beyond all reasonable doubts that he could not have been born on 01.01.1993, as alleged by the prosecution.

15-20. The Trial Court has failed to consider that Mohammad Abdullah Azam Khan had already applied for correction of his date of birth on 23.03.2015 before the St. Paul School, Rampur which was forwarded to C.B.S.E. on 15.04.2015 much prior to election of Legislative Assembly, 2017 and about three and half years prior to complaint and registration of FIR dated 13.01.2019.

15-21. After going through the statement of PW-3, Tejpal Singh in totality, clear inference can be drawn that he was telling lie after lie as there are material contradictions in his statement.

15-22. Referring to the relevant part of statement of Dr. Sunil Kumar Rawat, PW-7 whereby he had stated that copy of birth certificate issued by Queen Mary's Hospital, Lucknow was also attached along with the affidavit dated 17.1.2015 of Dr. Tanzeen Fatima, it is argued by Mr. Sibal that the said birth certificate was issued on 29.1.2015, therefore, the same could not be attached along with the affidavit dated 17.1.2015 of Dr. Tanzeen Fatima. In this regard, it is further stated that the statement had been given by Dr. Sunil Kumar Rawat, PW-7 in order to implicate the accused.

15-23. Much emphasis has been given by contending that the birth certificate dated 28.6.2012 of Mohammad Abdullah Azam Khan issued by Nagar Palika Parishad, Rampur was filed in Civil Appeal No. 104 of 2020 before the Hon'ble Supreme Court, on which there was no such endorsement in Hindi that the same was issued on the basis of affidavit. But when same birth certificate dated 28.6.2012 (Ext. Ka-11) has been filed by Investigating Officer along with charge sheet before the trial court of this case, on

which there was a stamp on the top of left side mentioning that शपथ पत्र के आधार पर जारी. This fact clearly goes to suggest that prosecution has filed the birth certificate dated 28.6.2012 (Ext. Ka-11) after making addition / interpolation by putting stamp शपथ पत्र के आधार पर जारी in order to support the prosecution case, which amounts to forgery on the part of prosecution. It is further pointed out that said fact was also proved by the defence by filing the correct birth certificate dated 28.6.2012 before the trial court as paper No. A80/1 which has also been exhibited as PW3/D1 on which there is no such stamping. On putting query in this regard, Mr. P.C. Srivastava, learned Additional Advocate General and learned counsel for complainant are speechless and they could not address the court on the said issue.

15-24. DWs 11, 15, 16 and 17 were the expert witnesses and their evidences have not been discussed by the Trial Court.

15-25. During trial revisionist- Mohammad Abdullah Azam Khan has also filed a civil suit No. 925 of 2023 on 12.5.2023 in the Court of Civil Judge (SD), which is still pending.

15-26. Relying upon the judgment of the Apex Court in the case of **Mohd. Ibrahim vs. State of Bihar** (2009) 8 SCC 751, it is argued that Section 467, 468 and 471 IPC cannot be applied in the present case as there is no forgery in the Birth Certificate dated 21.01.2015.

15-27. It is further submitted that although accused persons did not furnish false particulars, but even furnishing of a false particulars does not amounts to forgery, hence the birth certificate dated 21.01.2015 itself is not a forged document.

15-28. Since the entry of information furnished by Queen Mary's Hospital, Lucknow was already made on 30.9.1990 in births and deaths register of Municipal Corporation, Lucknow, therefore, provisions of Rule 9(3) Uttar Pradesh Registration of Births and Deaths Rules 2003 will not be attracted in the present case.

15-29. So far as Section 420 IPC is concerned, it is argued that nothing is on record to establish a dishonest or fraudulent intention of the revisionist and deceiving any person by them.

15-30. The documents were submitted before the Passport Authority by Mohammad Abdullah Azam Khan were in good faith considered to be correct documents obviating any scope of fraud or deceit, which is sine qua non for invoking Section 420 IPC.

15-31. So far as alleged offence against the revisionist under Section 120-B I.P.C. is concerned, it is submitted that initially revisionist was not charge-sheeted for the alleged offence under Section 120-B I.P.C. in charge-sheet No. 196 of 2019 dated 01.04.2019. On 10.3.2021 when discharge applications were moved on behalf of revisionists on which prosecution sought time to file objection, thereafter on 24.3.2021, 26.3.2021. 1.4.2021, 12.4.2021 prosecution took adjournment. On 3.8.2021 when it was argued on behalf of the revisionists that they are liable to be discharged as there is no evidence of conspiracy, then again prosecution took adjournment on 4.8.2021 and 5.8.2021 on the ground to show some judgments and the date was further fixed for 11.8.2021. On 11.8.2021 supplementary charge-sheet No. 196A of 2019 under Section 120-B I.P.C. has been filed by the informant Akash Kumar Saxena on behalf of the investigating officer, who was not present at that time in the Trial Court. On

8.11.2021 the complainant/ informant has also filed an application along with his affidavit seeking prayer to take cognizance upon the supplementary charge-sheet. It is also submitted that no permission was sought by the Investigating Officer from the trial court for conducting further investigation and even did not inform the trial court regarding any further investigation.

15-32. The revisionists have been falsely and maliciously implicated in several cases including this case due to political vendetta of the ruling party (BJP).

15-33. Revisionist-Dr Tanzeen Fatima has been member of Legislative Assembly from Rampur Constituency, U.P. once and Member of Rajya Sabha once. She retired from the post of Reader after dedicated service of 34 years as a teacher.

15-34. Revisionist-Mohammad Azam Khan has been member of Legislative Assembly for nine terms and was Cabinet Minister of State of U.P. He has also been privileged to discharge public democratic duty as a leader of the opposition for 14th State Legislative Assembly of State of U.P. He was Member of Rajya Sabha once and was also a Member of the 17th Lok Sabha.

16. Learned counsel for the revisionists lastly, explaining the criminal history of the revisionists, submits that prior to this case, being, Case Crime No. 04 of 2019 (Case No. 312 of 2022), revisionist Dr. Tanzeen Fatima was not having any criminal history. Revisionist Mohammad Azam Khan had criminal history of 06 pending cases and revisionist Mohammad Abdullah Azam Khan had criminal history of 01 case, when he was juvenile. The details of criminal history of the revisionists are as follows :

A-List of 35 Criminal Cases pending against Revisionist Dr. Tanzeen Fatima

S. No.	Case No.	Section(s)	Present status
1.	Crime No. 224/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail.
2.	Crime No.226/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
3.	Crime No.227/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
4.	Crime No.228/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
5.	Crime No.232/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420,120B IPC	On bail
6.	Crime No.235/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
7.	Crime No.236/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
8.	Crime No.237/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
9.	Crime No.238/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
10.	Crime No.239/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
11.	Crime No.240/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
12.	Crime No.241/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
13.	Crime No.242/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
14.	Crime No.248/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail

15.	Crime No.249/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
16.	Crime No.250/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
17.	Crime No.251/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
18.	Crime No.252/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
19.	Crime No.253/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
20.	Crime No.254/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
21.	Crime No.255/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
22.	Crime No.256/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
23.	Crime No.257/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
24.	Crime No.260/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
25.	Crime No.261/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
26.	Crime No.262/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
27.	Crime No.295/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
28.	Crime No.004/2019, P.S. Ganj, District Rampur, U.P.	U/s 420, 467, 468, 471, 120B, 34 IPC	Present Case
29.	Crime No.312/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 420, 447, 120B IPC & u/s 3 PDPP Act	On bail
30.	Crime No.46/2020, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447 IPC & 2/3 of PDPP Act	On bail

31.	Crime No. 53/2020, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447 IPC & 2/3 of PDPP Act	On bail
32.	Crime No. 553/2019, P.S. Kotwali, District Rampur, U.P.	U/s 447 IPC and 2 & 3 PDPP Act	On bail
33.	Crime No. 943/2019, P.S. Civil Lines, District Rampur, U.P.	U/s 420, 467, 468, 471, 120B IPC.	On bail
34.	Crime No. 70/2020, P.S. Kotwali, District Rampur, U.P.	U/s 420, 120B IPC.	On bail
35.	Crime No. 543/2019, PS Kotwali	U/s 135 of Electricity Act	On bail

16-A. Brief submissions of behalf of Revisionist-Dr. Tanzeen Fatima about her above mentioned criminal history are:

(i) Prior to F.I.R. dated 03.1.2019 of this case, she had no F.I.R. against her.

(ii) All the subsequent F.I.Rs. to this case cannot be termed as criminal history of revisionist Dr. Tanzeen Fatima.

(iii) All the above mentioned criminal cases were registered against her only after change of State Government in the year 2017.

(iv) After registration of F.I.R. being Case Crime No. 224 of 2019 (mentioned at Sl. No. 1), 26 successive F.I.Rs. (Sl. Nos. 2 to 27) of same offences were got registered separately by 26 farmers.

(v) The cases mentioned at Sl. Nos. 29, 30 & 31 (similar in nature) were filed due to the reason that she is a member of Maulana Jauhar Trust.

B- List of total 92 pending criminal cases against the revisionist Mohammad Azam Khan

Sl. No.	Case No.	Section(s)	Present status
1	Crime No.224/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 342, 384, 386, 389, 420, 323, 447, 506 IPC	On bail
2	Crime No.226/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 120-B, 323, 347, 386, 389, 420, 447, 504, 506 IPC	On bail
3	Crime No.227/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 120-B, 323, 342, 386, 389, 420, 447, 504, 506 IPC	On bail
4	Crime No.228/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 120-B, 323, 342, 386, 389, 420, 447, 506 IPC	On bail
5	Crime No.232/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 120-B, 323, 342, 386, 389, 420, 447, 506 IPC	On bail
6	Crime No.235/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 120-B, 323, 342, 386, 389, 420, 447, 504, 506 IPC	On bail
7	Crime No.236/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 120-B, 323, 342, 386, 389, 420, 447, 506 IPC.	On bail
8	Crime No.237/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 120-B, 323, 342, 386, 389, 420, 447, 506 IPC	On bail
9	Crime No.238/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 120-B, 323, 342, 386, 389, 420, 447, 506 IPC	On bail
10	Crime No.239/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 120-B, 342, 386, 389, 420, 447, 506 IPC	On bail

11	Crime No.240/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 120-B, 323, 342, 386, 389, 420, 447, 506 IPC	On bail
12	Crime No.241/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 120-B, 323, 342, 386, 389, 420, 447, 506 IPC	On bail
13	Crime No.242/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 120-B, 342, 386, 389, 420, 447, 506 IPC	On bail
14	Crime No.248/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 120-B, 323, 342, 386, 389, 420, 447, 506 IPC	On bail
15	Crime No.249/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 120-B, 323, 342, 386, 389, 420, 447, 506 IPC	On bail
16	Crime No.250/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 120-B, 323, 342, 386, 389, 420, 447, 506 IPC	On bail
17	Crime No.251/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 120-B, 323, 342, 386, 389, 420, 447, 506 IPC	On bail
18	Crime No.252/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 120-B, 323, 342, 386, 389, 420, 447, 506 IPC	On bail
19	Crime No.253/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 120-B, 323, 342, 386, 389, 420, 447, 506 IPC	On bail
20	Crime No.254/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 120-B, 323, 342, 386, 389, 420, 447, 506 IPC	On bail
21	Crime No.255/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 120-B, 323, 342, 386, 389, 420, 447, 506 IPC	On bail

22	Crime No.256/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 120-B, 323, 342, 386, 389, 420, 447, 506 IPC	On bail
23	Crime No.257/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 120-B, 323, 342, 386, 389, 420, 447, 504, 506 IPC	On bail
24	Crime No.260/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 120-B, 323, 342, 386, 389, 420, 447, 506 IPC	On bail
25	Crime No.261/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 120-B, 323, 347, 386, 389, 420, 447, 506 IPC	On bail
26	Crime No.262/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 120-B, 323, 342, 386, 389, 420, 447, 506 IPC	On bail
27	Crime No.295/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 120-B, 323, 342, 386, 389, 420, 447 IPC	On bail
28	Crime No.507/2019, P.S. Ganj, District Rampur, U.P.	U/s 447, 452, 504, 506, 395, 120-B IPC	After serving about 27 months he has been acquitted.
29	Crime No.508/2019, P.S. Ganj, District Rampur, U.P.	U/s 427, 447, 452, 504, 506, 395, 120-B IPC	Convicted by trial Court for 7 years on 16.03.2024, against which, Crl Revision is pending before the High Court.
30	Crime No.509/2019, P.S. Ganj, District Rampur, U.P.	U/s 427, 447, 452, 504, 506, 395, 120- B IPC	After serving about 27 months, he has been acquitted by the Trial Court.
31	Crime No.512/2019, P.S. Ganj, District Rampur, U.P.	U/s 427, 447, 452, 504, 506, 395, 120- B IPC	On bail
32	Crime No.513/2019, P.S. Ganj, District Rampur, U.P.	U/s 427, 447, 452, 504, 506, 395, 120- B IPC	On bail

33	Crime No.533/2019, P.S. Ganj, District Rampur, U.P.	U/s 323, 354, 427, 447, 452, 504, 506, 395, 120- B IPC	On bail
34	Crime No.536/2019, P.S. Ganj, District Rampur, U.P.	U/s 427, 447, 452, 504, 506, 395, 120- B IPC	On bail
35	Crime No.538/2019, P.S. Ganj, District Rampur, U.P.	U/s 323, 447, 452, 504, 506, 395, 120- B IPC	On bail
36	Crime No.556/2019, P.S. Ganj, District Rampur, U.P.	U/s 307, 392, 447, 452, 504, 506, 120- B IPC	On bail
37	Crime No.576/2019, P.S. Ganj, District Rampur, U.P.	U/s 147, 447, 452, 427, 323, 307, 354, 504, 395, 120B IPC	On bail
38	Crime No.629/2019, P.S. Ganj, District Rampur, U.P.	U/s 447, 452, 423, 504, 354, 506, 395, 120-B IPC	On bail
39	Crime No.528/2019, P.S. Kotwali, District Rampur, U.P.	U/s 452, 389, 427, 448, 395, 506, 504, 120B IPC	On bail
40	Crime No.529/2019, P.S. Kotwali, District Rampur, U.P.	U/s 452, 354A, 389, 395, 448, 427, 504, 506, 120B IPC	On bail
41	Crime No.531/2019, P.S. Kotwali, District Rampur, U.P.	U/s 504, 506, 427, 395, 448, 452, 120B IPC	On bail
42	Crime No.533/2019, P.S. Kotwali, District Rampur, U.P.	U/s 452, 427, 395, 448, 323, 504, 506, 120B IPC	On bail
43	Crime No.534/2019, P.S. Kotwali, District Rampur, U.P.	U/s 452, 427, 448, 389, 395, 504, 506, 120B IPC	On bail
44	Crime No.530/2019, P.S. Kotwali, District Rampur, U.P.	U/s 427, 504, 323, 395, 304, 448, 120B IPC	On bail
45	Crime No.535/2019, P.S. Kotwali, District Rampur, U.P.	U/s 452, 427, 323, 504, 506, 395, 448, 120B IPC	On bail
46	Crime No.536/2019, P.S. Kotwali, District Rampur, U.P.	U/s 452, 427, 504, 506, 389, 395, 448, 120B IPC	On bail

47	Crime No.537/2019, P.S. Kotwali, District Rampur, U.P.	U/s 452, 427, 504, 323, 395, 389, 448, 120B IPC	On bail
48	Crime No.538/2019, P.S. Kotwali, District Rampur, U.P.	U/s 452, 427, 504, 506, 395, 448, 120B IPC	On bail
49	Crime No.539/2019, P.S. Kotwali, District Rampur, U.P.	U/s 452, 427, 323, 504, 395, 448, 120B IPC	On bail
50	Crime No.556/2019, P.S. Kotwali, District Rampur, U.P.	U/s 452, 427, 389, 395, 448, 304, 504, 506, 120B IPC	On bail
51	Crime No.959/2007, P.S. Tanda, District Rampur, U.P.	U/s 171G, 504 IPC, 125 RP ACT & 3(1)(10) SC & ST Act.	On bail
52	NCR No.50/2019, P.S. Swar, District Rampur, U.P.	U/s 171G IPC	On bail
53	Crime No.167/2019, P.S. Tanda, District Rampur, U.P.	U/s 153A(1)(B), 505(1)(B) IPC & 125 RP ACT	On bail
54	Crime No.185/2019, P.S. Milak, District Rampur, U.P.	U/s 153A, 505(1)(B) IPC & u/s 125 RP Act	Convicted by trial Court for three years. Acquitted by appellate Court, against which, criminal revision is pending before High Court.
55	Crime No.130/2019, P.S. Shahzad Nagar, District Rampur, U.P.	U/s 171G, 505(1)(B) IPC & u/s 125 RP Act.	Convicted by trial Court for two years, confirmed by appellate Court, against which, criminal revision is pending before High Court.
56	Crime No.206/2019, P.S. Bilaspur, District Rampur, U.P.	u/s 153A, 505(1)(b) IPC & u/s 125 RP Act.	On bail

57	Crime No.94/2019, P.S. Khajuria, District Rampur, U.P.	U/s 153A(1)(b), 505(2) IPC & u/s 125 RP Act.	On bail
58	Crime No.221/2019, P.S. Shahabad, District Rampur, U.P.	U/s 509 IPC & u/s 125 RP Act & u/s 2(A)/3/6 Indecent Representation of Women (Prohibition) Act,1986	On bail
59	Crime No.215/2019, P.S. Shahabad, District Rampur, U.P.	U/s 171G IPC & u/s 125, 135(2) RP Act	On bail
60	Crime No.128/2019, P.S. Bhot, District Rampur, U.P.	U/s 295A, 188, 171G, 341, 505(2) IPC & u/s 125 RP Act	On bail
61	Crime No.336/2019, P.S. Civil Lines, District Rampur, U.P.	U/s 126(2) RP Act	On bail
62	Crime No.509/2017, P.S. Civil Lines, District Rampur, U.P.	U/s 153A, 505(1) IPC	On bail
63	NCR No.33/2019, P.S. Ganj, District Rampur, U.P.	U/s 171-F IPC and 133 RP Act	On bail
64	Crime No.232/2019, P.S. Shahbad, District Rampur, U.P.	U/s 295A, 188, 171G, 341, 505(2) IPC & 125 RP Act	On bail
65	Crime No.547/2018, P.S. Ganj, District Rampur, U.P.	U/s 147, 323, 341, 504, 506 IPC	On bail
66	Crime No.283/2019, P.S. Kotwali, District Rampur, U.P.	U/s 505(1)(B), 505(2) IPC, 125 RP ACT	On bail
67	Crime No.333/2019, P.S. Kotwali, District Rampur, U.P.	U/s 153A, 171F, 505A IPC & u/s 125 RP Act.	On bail
68	Crime No.472/2019, P.S. Civil Lines, District Rampur, U.P.	U/s 354A, 294, 504 IPC & u/s 67 IT Act	On bail
69	Crime No.505/2019, P.S. Katghar, District Moradabad, U.P.	U/s 354A, 294, 500, 509 IPC & 67 IT Act	On bail

70	C. Case No. 1088/SS/2017 a private complaint titled as "Dr Syed Ejaz Abbas Sunniy Vs Mohd Azam Khan (Bombay)	U/s 500 IPC	On bail
71	Crime No. 259/2022, PS Kotwali.	U/s 153A, 505 IPC	Notice u/s 41A Cr.P.C. was served upon Revisionist and he was not arrested during investigation. The charge sheet has been filed.
72	Crime No.165/2007, P.S. Rasoolpur, District Firozabad, U.P.	U/s 188, 153-A IPC	On bail
73	Crime No.79/2019, P.S. Hazratganj, District Lucknow	U/s 500, 505 IPC	On bail
74	Crime No.45/2020, P.S. Azeem Nagar, District Rampur, U.P.	U/s 153A, 295A, 500, 506 IPC	On bail
75	Crime No.4/2019, P.S. Ganj, District Rampur, U.P.	u/s 420, 467, 468, 471, 120-B IPC	Present case
76	Crime No.980/2019, P.S. Civil Lines, District Rampur, U.P.	u/s 420, 467, 468, 471, 120-B IPC	On bail
77	Crime No.781/2019, P.S. Civil Lines, District Rampur, U.P.	U/s 392, 427, 448 IPC	On bail
78	Crime No.176/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 332 IPC & u/s 2/3 PDPP Act	On bail
79	Crime No.46/2020, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447 IPC & 2/3 of PDPP Act	On bail
80	Crime No. 53/2020, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447 IPC & 2/3 of PDPP Act	On bail
81	Crime No.498/2019, P.S. Kotwali, District Rampur, U.P.	U/s 420, 467, 468, 471, 447, 120B IPC	On bail
82	Crime No.312/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 120-B,201, 420, 447, 467, 468, 471, 409 IPC & u/s 3 PDPP Act	On bail

83	Crime No. 642/2019, P.S. Ganj, District Rampur, U.P.	U/s 420, 447, 120-BIPC & u/s 3(2)(b) PDPP Act	On bail
84	Crime No.586/2019, P.S. Ganj, District Rampur, U.P.	U/s 120B, 307, 323, 386, 452, 504 IPC	After serving about 27 months, he has been acquitted by the Trial Court.
85	Crime No.397/2019, P.S. Ganj, District Rampur, U.P.	U/s 379, 448, 411 IPC	On bail
86	Crime No.52/2020, P.S. Chajlet, District Moradabad, U.P.	U/s 174A IPC	On bail
87	Crime No.001/2008, P.S. Chajlet, District Moradabad, U.P.	U/s 147, 341, 353 IPC and 7 CLA Act.	Convicted by Trial Court for two years and granted bail under Section 389 Cr.P.C.
88	Crime No.2/2018, P.S. SIT Lucknow	U/s 201, 204, 420, 467, 468, 471, 120B IPC & Sec 13 PC Act	On bail
89	Crime no. 211/2022 PS Kotwali.	U/s 409, 411, 201, 120B IPC & 2/3 PDPP Act	Charge sheet filed. Regular bail application is pending before High Court.
90	Crime No. 173/2022 PS Kotwali	U/s 147/195A/506/120B IPC	Notice u/s 41A Cr.P.C. was served upon Revisionist and he was not arrested during investigation. The charge sheet has been filed.
91	Crime No. 257/2022 PS Ganj.	U/s 452, 323, 504, 506, 420, 120B IPC	Charge sheet has been filed and he has been taken into judicial custody.
92.	Crime No.70/2020, P.S. Kotwali, District Rampur, U.P.	u/s 420, 120B, 467, 468, 471 IPC	On bail

16-B. Brief submissions on behalf of Revisionist Mohammad Azam Khan about his above mentioned criminal history are:

- (i) Prior to F.I.R. dated 03.1.2019 of this case, he had only 6 pending cases (Sl. Nos. 51, 62, 65, 72, 87, 88) against him. It is only after the change of the Government in the year 2017, due to political pressure police started lodging F.I.R. one after another.
- (ii) All the subsequent F.I.Rs. of this case cannot be termed as criminal history of revisionist Mohammad Azam Khan.
- (iii) Aforesaid false and frivolous cases have been lodged against him by local police of district Rampur for making his long criminal history.
- (iv) After registration of F.I.R. being Case Crime No. 224 of 2019 (mentioned at Sl. No. 1), 26 successive F.I.Rs. (Sl. Nos. 2 to 27) of same offences were got registered separately by 26 farmers.
- (v) Three cases mentioned at Sl. Nos. 36, 37 and 38 are in respect of same offences alleged to have been committed in the course of same transaction.
- (vi) Eleven cases mentioned at Sl. Nos. 39 to 50 are in respect of same offences making allegation inter alia of demolition of house and loot of goats, buffaloes and other household articles in furtherance of conspiracy hatched by Mohammad Azam Khan.
- (vii) Twenty four cases mentioned at Sl. Nos. 51 to 74 are related to hate speech.
- (viii) Case Crime No. 980 of 2019 (Sl. No. 76) was registered with similar allegation relating to date of birth as mentioned in Case Crime No. 4 of 2019 (Sl. No. 75) by changing police stations.
- (ix) The cases mentioned at Sl. Nos. 78, 79, 80, 81 and 82 (similar in nature) were filed relating to taking of enemy property inside the boundary wall of Jauhar University.

C. In addition to the aforesaid 92 pending criminal cases, the revisionist Mohammad Azam Khan had following 19 other cases, which have come to an end :

Sl. No.	Case No.	Section(s)	Present status
1	Case Crime No. 116 of 1982, PS Kotwali Rampur, district Rampur	U/s 147, 352, 504, 506 IPC	Case has been withdrawn by State.
2	Case Crime No. 250 of 1989, PS Kotwali Rampur, district Rampur	U/s 147, 353, 504 IPC	Case has been withdrawn by State.
3	Case Crime No. 252 of 1989, PS Kotwali Rampur, district Rampur	U/s 147, 353, 504 IPC	Case has been withdrawn by State.
4	Case Crime No. 767 of 2007, PS Kotwali Rampur, district Rampur	U/s 147, 148, 353, 504, 506 IPC	Case has been withdrawn by State.
5	Case Crime No. 558 of 2007, PS Kotwali Rampur, district Rampur	U/s 406, 409, 147, 148, 353, 506 IPC	Case has been withdrawn by State.
6	Case Crime No. 1534 of 2011, PS Kotwali Rampur, district Rampur	U/s 147, 148, 149, 341, 353, 332, 506, 427 IPC and Section 3 Prevention of Damage to Public Property Act, 1984	Case has been withdrawn by State.
7	Case Crime No. 127 of 2012, PS Kotwali Rampur, district Rampur	U/s 188 Representation of Peoples Act	Closure report submitted and the same has been accepted by Court.
8	Case Crime No. 114 of 2014, PS Kotwali Rampur, district Rampur	U/s 153, 153B, 295, 505(2), 188, 189, 504, 171G IPC and Section 125 Representation of Peoples Act	He has been discharged.

9	Case Crime No. 1200 of 2007, PS Civil Lines, district Rampur	U/s 427, 452, 120B IPC	Closure report submitted.
10	Case Crime No. 893 of 2000, PS Civil Lines, district Rampur	U/s 420, 120 IPC, 13(2) Prevention of Corruption Act	Case has been withdrawn by State.
11	Case Crime No. 554 of 2007, PS Ganj, district Rampur	U/s 109, 119, 120, 166, 174, 177, 34, 192, 217, 383, 384, 431, 432, 444, 447, 506 IPC	Closure report submitted.
12	Case Crime No. 606 of 2007, PS Ganj, district Rampur	U/s 427, 447, 323, 504, 506, 394 IPC	Closure report submitted.
13	Case Crime No. 607 of 2007, PS Ganj, district Rampur	U/s 427, 447, 323, 504, 506, 394 IPC	Closure report submitted.
14	Case Crime No. 230A of 1996, PS Shahjadnagar, district Rampur	U/s 332 IPC	Closure report submitted.
15	Case Crime No. 584 of 2007, PS Azeemnagar, district Rampur	U/s 431 IPC	Case has been withdrawn by State.
16	NCR No. 37 of 2007, PS Azeemnagar, district Rampur	U/s 323 IPC	Case has been withdrawn by State.
17	Case Crime No. 364 of 2022, PS Ganj, district Rampur	U/s 354A(1)(4), 504, 505(2), 509, 153A IPC	No sanction granted by the State.
18	Case Crime No. 398 of 2019, PS Kotwali, district Rampur	U/s 509 IPC	Closure report submitted.
19	Case Crime No. 335 of 2019	U/s 354A, 294, 500, 509 IPC and Section 67 IT Act	His complicity in the crime has been found false.

D. List of total 46 criminal cases pending against the revisionist
Mohammad Abdullah Azam Khan

S. No.	Case No.	Section(s)	Present status
1	Crime No.001/2008, P.S. Chajlet, District Moradabad, U.P.	U/S 147, 353, 341 IPC & 7 CLA Act.	*Convicted by trial Court for 2 years. *Criminal appeal is pending. *Bail granted
2	Crime No.224/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
3	Crime No.226/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
4	Crime No.227/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
5	Crime No.228/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
6	Crime No.232/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
7	Crime No.235/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
8	Crime No.236/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
9	Crime No.237/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
10	Crime No.238/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
11	Crime No.239/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
12	Crime No.240/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
13	Crime No.241/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail

14	Crime No.242/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
15	Crime No.248/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
16	Crime No.249/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
17	Crime No.250/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
18	Crime No.251/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
19	Crime No.252/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
20	Crime No.253/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
21	Crime No.254/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
22	Crime No.255/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
23	Crime No.256/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
24	Crime No.257/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
25	Crime No.260/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
26	Crime No.261/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
27	Crime No.262/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
28	Crime No.295/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447, 420, 120B IPC	On bail
29	Crime No.004/2019, P.S. Ganj, District Rampur, U.P.	U/s 420, 467, 468, 471, 120B, 34 IPC.	Present case.

30	Crime No. 594/2019, P.S. Civil Lines, District Rampur, U.P.	U/s 420, 467, 468, 471, 120B IPC	On bail
31	Crime No.980/2019, P.S. Civil Lines, District Rampur, U.P.	u/s 420, 467, 468, 471, 120-B IPC	On bail
32	Crime No. 98/2021, P.S. Suar, District Rampur, U.P.	U/s 125A RP Act	On bail
33	Crime No.312/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 420, 447, 120B IPC & u/s 3 PDPP Act	On bail
34	Crime No.46/2020, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447 IPC & 2/3 of PDPP Act	On bail
35	Crime No. 53/2020, P.S. Azeem Nagar, District Rampur, U.P.	U/s 447 IPC & 2/3 of PDPP Act	On bail
36	Crime No.586/2019, P.S. Ganj, District Rampur, U.P.	U/s 452, 323, 307, 504, 386, 120B IPC	After serving about 20 months incarceration period in jail, he has been acquitted by the Trial Court.
37	Crime No.397/2019, P.S. Ganj, District Rampur, U.P.	U/s 379, 448, 411 IPC	On bail
38	Crime No. 231/2019, P.S. Azeem Nagar, District Rampur, U.P.	U/s 147, 149, 153, 353 IPC.	On bail
39	Crime No. 334/2019, P.S. Kotwali, District Rampur, U.P.	U/s 171G IPC and 125 RP Act	On bail
40	Crime No. 553/2019, P.S. Kotwali, District Rampur, U.P.	U/s 447 IPC and 2 & 3 PDPP Act	On bail
41	Crime No. 478/2019, P.S. Ganj, District Rampur, U.P.	U/s 504, 506 IPC.	On bail

42	Crime No. 943/2019, P.S. Civil Lines, District Rampur, U.P.	U/s 420, 467, 468, 471, 120B IPC.	On bail
43	Crime No. 505/2019, P.S. Katghar, District Moradabad, U.P.	U/s 294, 354A, 500, 509 IPC and 7 CLA, Act	On bail
44.	Crime no. 211/2022 PS Kotwali.	U/s 409, 411, 201, 120B IPC & 2/3 PDPP Act	Bail application is pending before High Court.
45.	Crime No. 367/2022, P.S. Ganj, District Rampur,	U/S 147/172G/ 323/504/506/332/ 188 IPC	Notice under Section 41A Cr.P.C. has been served.
46.	Crime No. 9/2024 PS Kotwali	U/s. 420/431/ 120B IPC, Section 2/3 of PDPP Act, 1984 and Section 5/15 of Environmental Protection Act.	Notice under Section 41A Cr.P.C. has been served.

16-C. Brief submissions on behalf of Revisionist Mohammad Abdullah Azam Khan about his above mentioned criminal history are:

(i) Prior to F.I.R. dated 03.1.2019 of this case, he had only 1 case (Sl. No.1) against him. It is only after the change of the Government in the year 2017, police due to political pressure started lodging F.I.R. one after another.

(ii) All the subsequent F.I.Rs. of this case cannot be termed as criminal history of revisionist Mohammad Abdullah Azam Khan.

(iii) Aforesaid false and frivolous cases have been lodged against him by local police of district Rampur for making his long criminal history.

(iv) In two cases being Case Crime No. 381 of 2017, under Sections 147, 148, 149, 307, 427, 504, 506 IPC, police station

Kotwali, district Rampur and Case Crime No. 184 of 2017, under Sections 147, 148, 149, 307 IPC, police station Swar, district Rampur, which have been shown in the counter affidavit of the State, name of Mohammad Abdullah Azam Khan has been dropped during investigation.

(v) After registration of F.I.R. being Case Crime No. 224 of 2019 (mentioned at Sl. No. 2), 26 successive F.I.Rs. (Sl. Nos. 3 to 28) of same offences were got registered separately by 26 farmers.

(vi) Case Crime Nos. 594 of 2019 (Sl. No. 30), 980 of 2019 (Sl. No. 31), 98 of 2021 (Sl. No. 32) were registered with similar allegation relating to date of birth as mentioned in Case Crime No. 4 of 2019 (Sl. No. 29) by changing police stations.

(vii) In the cases mentioned at Sl. No. 29, 30 & 31, the first informant is Akash Kumar Saxena, BJP Leader and sitting MLA from Rampur.

(viii) The cases mentioned at Sl. Nos. 33, 34 & 35 (similar in nature) were filed due to the reason that he is member of Maulana Jauhar Trust.

(ix) He has been falsely implicated in F.I.Rs. mentioned from Sl. No. 36 to 46. without any evidence due to political enmity.

17. On behalf of accused-revisionists reliance has been placed on following judgements on different issues :-

- Ayodhya Prasad Sital Prasad Vs. Emperor ; AIR 1938 Sind 193
- VR Venugopal v. Miss T Pankajam; (1961) 1 CrLJ 804
- Matilal Chakravarty v. The King; AIR 1949 Cal 58
- Mohammaed Ibrahim and Ors. v. State of Bihar & anr; (2009) 8 SCC 751
- Sheila Sebastian v. R. Jawaharaj and Anr.; (2018) 7 SCC 581

- Sanjiv Ratanappa Ronad v. Emperor; AIR 1932 Bom 545
- Guru Bipin Singh v. Chongtham Manihar Singh (1996) 11 SCC 622
- State of U.P. vs. Sabir Ali; (1964) 7 SCR 435
- Dr. S. Dutt vs. State of U.P.; (1966) 1 SCR 493
- Oseela Abdul Khader & Anr. V. State of Kerala; 2012 SCC Online Kerala 31803
- Kiran Kanta v. State of Uttarakhand; 2019 SCC Online Utt 1670
- Krishna Kumari v. State of Punjab, 2016 SCC Online P&H 16199
- Surineni Renukaiah v. State of A.P.; Crl. P. No. 6234/2022
- Jullu Rehman v. State of Jharkhand; Crl. M.P. No. 576/2012
- Pardeep Singh v. State of Punjab; CRM.M, 48407/2018
- Malcolm War Macleod v. State of W.B; 2010 SCC Online Cal 2115
- State of U.P. v. Singhara Singh and Ors.; (1964) 4 SCR 485
- Noor Mohammad v. State of UP; 2010 SCC Online All 823
- Ravi Kant Sharma v. State; 2011 SCC Online Del 4342
- Amin & Anr. v. State; 1957 SCC Online All 331
- Kishore Chand v. State of Himachal Pradesh; (1991) 1 SCC 286
- State of A.P. v. Punati Ramulu & Ors.; 1994 Supp (1) SCC 59
- Vijender and Ors. v. State of Delhi; (1997) 6 SCC 171
- Tomaso Bruno & Anr. v. State of U.P.; (2015) 7 SCC 178
- Mohanlal Shamji Soni v. Union of India & Anr.; 1991 Supp (1) SCC 271
- Arjun Panditrao Khotkar v. Kailash Kushanrao Gorantyal, (2020) 7 SCC 1

- Anvar P.V. v. P.K. Basheer, (2014) 10 SCC 473
- State v. Navjot Sandhu; (2005) 11 SCC 600

Submissions on behalf of the State and complainant

18. Main substratum of argument of learned counsel appearing on behalf of the State and complainant are that;-

18-1. Right from childhood to 16.1.2015, in all the concerned documents, the date of birth of Mohammad Abdullah Azam Khan was recorded as 01.1.1993 and place of birth was Rampur.

18-2. Since, in the year 2017, Mohammad Abdullah Azam Khan was not completing the age of 25 years, which was the minimum eligibility criteria for contesting legislative assembly election, therefore, the accused-revisionists in a pre-planned manner got a second birth certificate dated 21.1.2015 issued from Municipal Corporation, Lucknow, in which date of birth of Mohammad Abdullah Azam Khan is shown as 30.09.1990 and his place of Birth is shown as Lucknow.

18-3. The impugned birth certificate dated 21.1.2015 is a forged document because the same has been obtained by concealing the fact of issuance of birth certificate dated 28.06.2012 by Nagar Palika Parishad, Rampur. The birth certificate dated 21.1.2015 has been issued on the basis of application and affidavit dated 17.1.2015 of Dr. Tanzeen Fatima as well as taking into consideration the birth and death register dated 30.9.1990 (Ext. Ka-56) of Municipal Corporation, Lucknow, which has been forged / interpolated by making wrong entry.

18-4. It is also submitted that since the record of Nagar Palika Parishad, Rampur was burnt in the year 2015, therefore, there is

no evidence to establish the basis of issuance of birth certificate dated 28.06.2012 by Nagar Palika Parishad, Rampur but under the facts of the case it shall be presumed that the birth certificate dated 28.06.2012 would have been issued on the basis of affidavit of Mohammad Azam Khan and his wife Dr. Tanzeen Fatima.

18-5. It is also submitted that since at the time of procuring the second birth certificate dated 21.1.2015 of Mohammad Abdullah Azam Khan from Municipal Corporation, Lucknow, Mr. Mohammad Azam Khan was sitting Cabinet Minister and the birth certificate has been issued within four days, therefore, it shall also be presumed that the same would have been issued under his direction and influence, therefore, offence under section 120-B IPC is made out against all the accused.

18-6. So far as allegation of the prosecution in the FIR that the birth certificate dated 21.1.2015 has been issued on the basis of certificate dated 21.4.2015 (Ext.-Kha-1/PW-7) of Queen Mary's Hospital, Lucknow, it is argued that since the said certificate dated 21.04.2015 was found in the file of Municipal Corporation, Lucknow, therefore, it shall also be presumed that the said certificate dated 21.4.2015 would have been taken into consideration while issuing birth certificate dated 21.1.2015. This submission of learned Additional Advocate General and learned counsel for the complainant is too hard to swallow.

18-7. On the issue of locus of the complainant, it is argued that since, it is an offence against the State, therefore, any one can lodge FIR in such matter.

18-8. On the issue of defective investigation, it is submitted that the accused cannot take benefit of faulty investigation.

18-9. Since Birth certificates create a legal right, therefore same is valuable security.

18-10. Lastly it is submitted that the prosecution has proved its case beyond reasonable doubt, hence the interim relief as sought for by the revisionists is liable to be rejected.

Discussion

19. In view of the above, at this stage, this Court is required to consider the prayer of the revisionists for suspension of their sentence and stay of their conviction during pendency of these Criminal Revisions before this Court.

20. Having heard the submissions of learned counsel for the parties and having gone through the record of the case which consists of more than thousand pages in its entirety, I find that the facts enumerated below are not in dispute by the learned counsel for the parties :

20-1. In the year 1995, Mohammad Abdullah Azam Khan took admission in class nursery at St. Paul School, Rampur and on 01.04.1998 he got admission in Class Ist. As per school record, his date of birth is 01.01.1993. He studied at St. Paul School, Rampur till 12th standard. Thereafter he also did B.Tech and M.Tech in the year 2015 and in all his educational mark-sheets / certificates, his date of birth is mentioned as 01.01.1993.

20-2. In the year 2006 when Mohammad Abdullah Azam Khan was studying in IX standard, there were some spelling mistakes in his name as well as in the name of his mother, which was got corrected by Mohammad Abdullah Azam Khan before sending the final list to CBSE Board for the examination of Xth standard.

20-3. On 18.7.2006, manual birth certificate (Ext. Ka-21) was got issued from Nagar Palika Parishad, Rampur by Mohammad Abdullah Azam Khan, in which his date of birth is mentioned as 01.1.1993 and place of birth is mentioned as Rampur, which was used by Mohammad Abdullah Azam Khan in getting his first passport no. F-8757022 (Ext. Ka-14) issued on 28.8.2006, the validity period thereof was up to 31.12.2010.

20-4. On 28.06.2012, the computerized birth certificate (Ext. Ka 11) was issued to Mohammad Abdullah Azam Khan by Nagar Palika Parishad, Rampur, in which date of birth of Mohammad Abdullah Azam Khan is mentioned as 01.01.1993 and his place of birth is mentioned as Rampur.

20-5. The second passport No. K-7951741 dated 13.07.2022 (Ext. Ka 13) of Abdullah Azam Khan was issued on the basis of birth certificate dated 28.06.2012 (Ext. Ka 11) issued by the Nagar Palika Parishad, Rampur. The second passport was valid up to 12.07.2022.

20-6. On 10.01.2018, Mohammad Abdullah Azam Khan applied for correction of his date of birth in his second passport No. K-7951741 dated 13.07.2022 (Ext. Ka 13) on the basis of his birth certificate dated 21.01.2015 (Ext. Ka 59) and cancellation order dated 30.01.2015 (Ext. Ka-9) of first birth certificate dated 28.06.2012 (Ext. Ka-11). On the said application, police verification report was submitted on the same day i.e. on 10.01.2018 and after depositing penalty amount, passport has been issued on 10.01.2018 itself to Mohammad Abdullah Azam Khan and later the same was impounded when he was in jail.

20-7. On 17.1.2015, Dr. Tanzeen Fatima moved an application (Ext. Ka 55) addressed to City Health Officer, Municipal Corporation, Lucknow stating therein that her son (Mohammad Abdullah Azam Khan) was born on 30.09.1990 in Queen Mary's Hospital, Lucknow and the birth certificate is urgently needed for very important and unavoidable reasons. She has also filed her own affidavit dated 17.1.2015 (Ext. Ka 53) in support of her application. On such an application and affidavit being furnished by Dr. Tanzeen Fatima, within four days, the birth certificate of Mohammad Abdullah Azam Khan was issued by Municipal Corporation, Lucknow on 21.01.2015 (Ext. Ka-59) on the basis of entry made in Births and Deaths register of September, 1990 (Ext .Ka-56) of Municipal Corporation, Lucknow based on the information given by Queen Mary's Hospital, Lucknow. PW-7 has also given certificate (Ext. Ka-57) to this effect. All the above noted documents (Ext.Ka-53, 55, 56, 57 & 59) were produced by the prosecution and proved by the PW-7.

20-8. After issuance of second birth certificate dated 21.01.2015 (Ext. Ka-59), the first birth certificate dated 28.06.2012 (Ext. Ka-11) was cancelled on 30.01.2015 (Ext. Ka-9) by Nagar Palika Parishad, Rampur.

20-9. On 23.03.2015 Mohammad Abdullah Azam Khan moved an application (Ext. Ka-7) before St.Paul School, Rampur for amendment of his date of birth in school record, which was forwarded to C.B.S.E. on 15.04.2015 (P.W.-2/A), 19.04.2015 (P.W.-2/B) and 15.04.2015 (P.W.-2/C).

20-10. In the year 2013, first PAN No. DFOPK6164K was issued to Mohammad Abdullah Azam Khan, in which his date of birth is mentioned as 01.01.1993. Thereafter in the year 2015,

Mohammad Abdullah Azam Khan obtained second PAN Card No. DWAPK7513R, in which his date of birth is mentioned as 30.09.1990. On 09.05.2017, Mohammad Abdullah Azam Khan gave an application to deactivate his second PAN No. DWAPK7513R and similarly, he also gave an application dated 19.09.2017 for correction of his date of birth in his first PAN Card No. DFOPK6164K. Both the above mentioned applications are still pending.

20-11. As per statement of PW-3 Tejpal Singh Verma, the record related to Birth Certificate dated 28.06.2012 issued by Nagar Palika Parishad, Rampur had been burnt on 8.5.2015 and thereafter, pursuant to order dated 26.11.2018 of Executive Officer, Sub-Divisional Magistrate, Rampur, a committee of five members was constituted to investigate the incident of fire that broke out in the premises of Municipal Corporation, Rampur on 8.5.2015. In the said committee PW-3 was also one of the members. The five members committee submitted report dated 20.12.2018 mentioning inter alia that the incident of fire was accidental.

20-12. The notification was issued notifying the schedule for election of UP State Legislative Assembly of 34-Suar Assembly Constituency of District Rampur. Mohammad Abdullah Azam Khan for contesting said election filed his nomination papers on 24.01.2017 using his second birth certificate dated 21.01.2015 issued by Municipal Corporation, Lucknow. The election took place as per schedule, in which Mohammad Abdullah Azam Khan was declared elected on 11.03.2017. The said election of Mohammad Abdullah Azam Khan was challenged by Nawab Kazim Ali Khan in Election Petition No. 8 of 2017, which was allowed by the High

Court vide judgment and order dated 16.12.2019 and the election of Mohammad Abdullah Azam Khan from 34-Suar Assembly Constituency of District Rampur was declared void and the same was set aside. Mohammad Abdullah Azam Khan preferred a Civil Appeal No. 104 of 2020, U/s 116A of the Representation of People Act, 1951 before the Hon'ble Supreme Court against the judgment and order dated 16.12.2019 passed by High Court of Judicature at Allahabad, which has been dismissed by the Hon'ble Supreme Court vide judgment and order dated 07.11.2022 affirming the judgment of the High Court. In Review Petition No. 160 of 2023, it has been further clarified by the Hon'ble Supreme Court vide order dated 07.2.2023 that the criminal cases, if any, pending in reference to self-same subject may be decided on its own merits.

20-13. Mohammad Azam Khan and Dr. Tanzeen Fatima were not a party to the proceeding before Hon'ble Supreme Court.

20-14. As per FIR version, Abdullah Azam Khan had used second birth certificate dated 21.1.2015 in obtaining degrees of Jauhar University, whereas during course of argument, it is admitted by the learned counsel for the parties that there is no evidence on record to establish that second birth certificate dated 21.1.2015 was used by Mohammad Abdullah Azam Khan for obtaining any degree from Jauhar University.

20-15. During investigation, the investigating officer has neither recorded the statement under Section 161 Cr.P.C. of the concerned person of Nagar Palika Parishad, Rampur who had issued manual birth certificate dated 18.7.2006 (Ext. Ka-21) nor prosecution produced him as prosecution witnesses before the trial court.

20-16. Similarly the investigating officer has neither recorded the statement under section 161 Cr.P.C. of Mr. Rajeev Rajput, the then Sub-Registrar Births and Deaths, Nagar Palika Parishad, Rampur, who had issued birth certificate dated 28.6.2012 nor prosecution produced him as prosecution witnesses before the trial court.

20-17. The statement under section 161 Cr.P.C. of the concerned persons of Municipal Corporation, Lucknow, who had processed and issued second birth certificate dated 21.01.2015 was also neither recorded nor they were produced by the prosecution before the trial Court, whereas they were the material witnesses relating to allegations levelled by the prosecution against the revisionists.

20-18. The statement under section 161 Cr.P.C. of the SDM concerned, who is the competent authority under Rule 9(3) of Uttar Pradesh Registration of Births and Deaths Rules 2003 as well as concerned persons/ Doctor of Queen Mary's Hospital, Lucknow was also neither recorded nor they were produced by the prosecution before the trial Court.

20-19. Despite availability of direct evidence as mentioned above, the prosecution, by ignoring the same, tried to prove its case through indirect evidence. On putting query in this regard, learned counsel for the State and the complainant could not give any satisfactory reply.

21. Now it would be appropriate to deal a brief overview of the role and evidence on record relating to each of the revisionist individually.

Dr. Tanzeen Fatima

i- The second birth certificate dated 21.01.2015 was issued on the basis of an application dated 17.01.2015 (Ext Ka 55) and affidavit dated 17.01.2015 (Ext. Ka 53) of Dr. Tanzeen Fatima, wherein she has stated that the correct date of birth of Abdullah Azam Khan is 30.9.1990. The said fact may be incorrect but both the above documents cannot be said to be forged documents.

ii- The relevant fact that a birth certificate dated 28.06.2012 (Ext. Ka-11) has already been issued by Nagar Nigam, Rampur to Mohammad Abdullah Azam Khan has not been disclosed by Dr. Tanzeen Fatima in her application dated 17.01.2015 (Ext. Ka 55) and affidavit dated 17.01.2015 (Ext. Ka 53).

Mohammad Abdullah Azam Khan

i- Right from beginning to 16.1.2015, date of birth of Mohammad Abdullah Azam Khan was mentioned as 01.1.1993 and place of birth as Rampur in all his educational documents etc.

ii- The second birth certificate dated 21.1.2015 in which date of birth of Mohammad Abdullah Azam Khan is shown as 30.9.1990 and place of birth at Rampur has been used by Mohammad Abdullah Azam Khan in filing his nomination paper dated 24.01.2017 for election of Legislative Assembly, 2017 and for obtaining third passport dated 10.1.2018 and new PAN card.

iii- The election contested by Mohammad Abdullah Azam Khan on the basis of second birth certificate dated 21.1.2015 has been cancelled by the High Court and affirmed by the Hon'ble Supreme Court.

Mohammad Azam Khan

i-Regarding birth certificate dated 28.6.2012 issued by the Nagar Palika Parishad, Rampur, it is the case of the prosecution (State and the complainant) that same had been issued on the basis of affidavit of Mohammad Azam Khan and Dr. Tazneen Fatima but no such affidavits are on record and prosecution could not prove said allegation by documentary evidence.

ii-The fire broke out in Nagar Nigam, Rampur on 08.5.2015 but inquiry of the said incident was made in the year 2018 during the period of present ruling party, in which PW-7 was also one of the member and in the inquiry report dated 20.12.2018, it was found that fire was accidental and there is no allegation against Mohammad Azam Khan.

iii-Nothing is on record to indicate that for issuance of the impugned second birth certificate dated 21.01.2015 by the Municipal Corporation Lucknow, any information (oral or written) was given by Mohammad Azam Khan.

iv- Mr. Rajeev Rajput, the then Sub-Registrar of Births and Deaths of Municipal Corporation, Rampur who had prepared and issued Birth Certificate dated 28.06.2012 was the star and relevant witness but neither his statement under Section 161 Cr.P.C. was recorded nor he was produced by the prosecution before the trial Court.

v- Mr. P.K. Singh, then Sub-Registrar of Births and Deaths of Municipal Corporation, Lucknow who had prepared and issued Birth Certificate dated 21.01.2015 was also the star and relevant witness, but neither his statement under Section 161 Cr.P.C. was

recorded nor he was produced by the prosecution before the trial Court.

vi- With regard to alleged offence of conspiracy under Section 120-B of IPC against Mohammad Azam Khan, the case of the prosecution is mainly based on statement of PW-11 and PW-13 who have stated inter-alia that they became proposer in the nomination of 2017 election of Mohammad Abdullah Azam Khan on the instructions of Mohammad Azam Khan and Mohammad Abdullah Azam Khan. On the other hand the case of the accused-revisionists is that PW-11 and PW-13 were not interrogated during investigation. Their statements under Section 161 Cr.P.C. were not recorded and they are not witnesses of the charge-sheet. During trial PW-11 started supporting the complainant and became inimical to Mohammad Azam Khan and in this regard, he also held a press conference on 21.11.2022 stating inter alia that he is supporting the complainant Akash Saxena, who was contesting by-election from Legislative Assembly Rampur Constituency (32), which was scheduled to be held on 05.12.2022. The said press conference was telecast by 'Bharat Channel' on 21.11.2022 at about 04:03 PM and also admitted by PW-11 during the trial. Since, he was inimical to Mohammad Azam Khan, therefore, for the first time an application was moved on 22.11.2022 on behalf of the prosecution under Section 311 Cr.P.C. for summoning PW-11 Mohammad Shafiq and PW-13 Dinesh Goel, on which oral objection was raised on behalf of the accused that prosecution cannot be permitted to improve its case, but the said application was allowed on the same day on 22.11.2022 and their examination-in-chief were recorded on 25.11.2022 and 13.12.2022. On the conviction of Mohammad Azam Khan vide

judgement and order dated 27.10.2022 in a hate speech case, he became disqualified and thereafter in by-election complainant Akash Saxena contested the election and elected as M.L.A and after disqualification of Mohammad Abdullah Azam Khan, vacancy arose, on which PW-11 contested the election on the symbol of Apna Dal (S), one of the alliance parties in NDA and elected as M.L.A. Much emphasis has been given by contending that after giving false statement by PW-11 against Mohammad Azam Khan, he has been rewarded.

22. The allegation of the prosecution in FIR that the second birth certificate dated 21.1.2015 was issued by the Municipal Corporation, Lucknow on the basis of duplicate birth certificate No. 718 dated 21.4.2015 issued by Queen Mary's Hospital, Lucknow is not possible at all, as the same is of later date. The stand of the prosecution (State and the complainant) in this regard is wholly misconceived as no prudent person can ever reach on the conclusion that any certificate can be issued in the month of January, 2015 on the basis of document of April, 2015.

23. On putting specific query, that who has been cheated in this case by Mohammad Azam Khan and what is the evidence of deception, cheating, furnishing false information or forgery/fabricating document and forgery in valuable security on the part of Mohammad Azam Khan, learned counsel appearing on behalf of the State and complainant could not point out any material evidence against Mohammad Azam Khan in this regard except stating that since he was aware about the birth certificate dated 21.01.2015, therefore presumption shall be drawn against him.

24. It is well settled that conjectures and suspicions should not be allowed to take place of legal proof in view of Section 3 of the Evidence Act. At times, it can be a case of 'may be true', but there is a long mental distance between 'May be true' and 'Must be true' and the same divides conjectures from sure conclusions.

25. It is also well settled that whoever forges a document purporting to be a valuable security is an offence under Section 467 IPC and using of that forged document as genuine is offence under Section 471 IPC. There is no evidence on record to establish that any of the revisionists have forged the birth certificate dated 21.1.2015. Similarly forgery for the purpose of cheating is offence under Section 468 IPC but basic ingredient of all the three offences is that there should be forgery, which is punishable under Section 465 IPC. In the instant case revisionists have not been convicted for the offence under section 465 IPC. It is a case of the prosecution that birth certificate dated 21.1.2015 is a forged and false document, but the person, who made, signed, sealed and executed, has not been prosecuted, neither his statement under section 161 Cr.P.C was recorded nor he was produced before the trial court. So far as Section 468 IPC is concerned, there must be a forgery for the purpose of cheating as defined under Section 415 IPC. The Hon'ble Apex Court in catena of decisions considering and discussing the ingredients of offence of cheating has settled the law that in order to constitute an offence of cheating there must be a person deceived or in another word a person must deceived another and by doing so the former must induce the person so deceived, but in the instant case, there is no victim. The complainant Akash Saxena is not a person deceived by the revisionists, therefore, in view of Section 39 Cr.P.C, he had no locus

to lodge FIR as the offence under Section 120-B, 420, 467, 471 IPC, for which the revisionists have been tried and convicted, are not covered under Section 39 of Cr.P.C. The ingredients/evidence of cheating and dishonestly inducing delivery of any property is also lacking in this case, hence Section 420 IPC is also not made out. In the light of judgement of Hon'ble Apex Court in the case of **Mohd. Ibrahim vs. State of Bihar (Supra)**, I find force in the submission of Mr. Sibal, learned Senior Counsel for the revisionists.

26. Here it would be apposite to mention that the Hon'ble Apex Court in the case of **M.N.G Bharateesh Reddy Vs. Ramesh Ranganathan and another**, 2022 SCC OnLine SC 1061 has considered and discussed the ingredients of Section 415 and 420 IPC. The relevant paragraph Nos. 13 to 16 are extracted herein below:

"13. The ingredients of the offence of cheating are spelt out in Section 415 of the IPC. Section 415 is extracted below:

"415. Cheating — Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to "cheat".

Explanation — A dishonest concealment of facts is a deception within the meaning of this section."

14. The ingredients of the offence under Section 415 emerge from a textual reading. Firstly, to constitute cheating, a person must deceive another. Secondly, by doing so the former must induce the person so deceived to (i) deliver any property to any person; or (ii) to consent that any person shall retain any property; or (iii) intentionally induce the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived and such an act or omission must cause or be likely to cause damage or harm to that person in body, mind, reputation or property.

15. Section 420 deals with cheating and dishonestly inducing delivery of property. It reads as follows:

“420. Cheating and dishonestly inducing delivery of property – Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being capable of converting into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.”

16. In **Hridaya Ranjan Prasad Verma v. State of Bihar**, (2000) 4 SCC 168, a two-judge bench of this Court interpreted Sections 415 and 420 of IPC to hold that fraudulent or dishonest intention is a precondition to constitute the offence of cheating. The relevant extract from the judgment reads thus:

"14. On a reading of the section it is manifest that in the definition there are set forth two separate classes of acts which the person deceived may be induced to do. In the first place he may be induced fraudulently or dishonestly to deliver any property to any person. The second class of acts set forth in the section is the doing or omitting to do anything which the person deceived would not do or omit to do if he were not so deceived. In the first class of cases the inducing must be fraudulent or dishonest. In the second class of acts, the inducing must be intentional but not fraudulent or dishonest."

27. In similar issue relating to alleged forgery in two certificates for getting admission in college had been considered by the Hon'ble Apex Court in the case of **Shriniwas Pandit Dharmadhikari Vs. State of Maharashtra and other connected appeals**, 1980 SCC (Cri) 45, in which the Hon'ble Apex Court after discussing the ingredients of Sections 467 and 471 IPC, set aside the sentence passed against the appellants by a very precise order, which is quoted herein below:

"The appellant was convicted of offence under Sections 417, 420 read with Section 511 and Section 471 read with Section 467 of the Indian Penal Code and sentenced to various terms of imprisonment and fine for those offences. Having heard counsel for both sides we do not find any reason to disturb the order of conviction in respect of offences under Sections 417 and 420 read with Section 511 but as regards the offence under Section 471 read with Section 467, I.P.C. we do not think that the two certificates the appellant has been found to have forged to get admission in the Arts and Commerce College affiliated to Poona University could be described as 'valuable security' as the expression is defined in Section 30 of the Indian Penal Code.

We, therefore, alter the conviction under the aforesaid sections to one under Section 471 read with Section 465 of the Indian Penal Code. However, having regard to the facts and circumstances of the case we set aside the sentences passed against the appellant and remit the matter to the trial court to consider, as provided in Section 6 of the Probation of Offenders Act, 1958, whether the appellant should be given the benefit of Section 4 of the said Act. If the trial court does not find it expedient to release the appellant on probation of good conduct under Section 4 of that Act, it should then pass proper sentences on the appellant for the offences of which the appellant has been found guilty. The fine imposed on the appellant, if paid, shall be refunded. The appeal is disposed of as above."

28. Apart from merit of the case, I also find that:-

- i- That alleged offence against the revisionists are not a heinous offence.
- ii-Revisionists were on bail during trial and they did not misuse the liberty.
- iii- Revisionist-Dr. Tanzeen Fatima is aged about 72 years and revisionist Mohammad Azam Khan is aged about 74 years and are suffering from several old aged diseases.
- iv-There is no possibility of absconding of the revisionists.
- v-Till date, out of maximum sentence of seven years, they have already served following sentence with remission:
 - a-Dr. Tanzeen Fatima has served more than 01 year and 04 months,
 - b- Mohammad Azam Khan has served more than 02 years and 05 months,

c- Mohammad Abdullah Azam Khan has served more than 01 year and 04 months.

Conclusion

29. In view of the above, considering the facts and circumstances of the case in totality, nature of allegations, role attributed to the revisionists, material evidence on the record, submissions advanced on behalf of the parties concerned and reasons as noted above, this Court is of the view that the application under Section 389(1) Cr.P.C. of the revisionists for suspension of their sentence dated 18.10.2023 (affirmed by the order dated 23.12.2023 of the appellate court) during pendency of above mentioned Criminal Revisions is liable to be allowed.

30. As a fallout and consequence of the above discussion, the impugned order dated 18.10.2023 of sentence, as noted above is hereby suspended during pendency of these Criminal Revisions.

31. Accordingly, the revisionists namely, Dr. Tanzeen Fatima, Mohammad Azam Khan and Mohammad Abdullah Azam Khan who have been convicted and sentenced by the impugned judgment and order dated 18.10.2023, be released on bail on their furnishing a personal bond and two reliable sureties each in the like amount to the satisfaction of Court concerned during pendency of these Criminal Revisions.

32. On acceptance of their bail bonds, the trial court shall transmit the photo copies thereof to this Court for being kept on record of these Criminal Revisions.

33. Considering the nature of allegations, role attributed to the revisionists and evidence on record against the revisionists, I find

that the case of revisionist Mohammad Azam Khan is distinguishable from the case of Dr. Tanzeen Fatima and Mohammad Abdullah Azam Khan. Accordingly, the judgement and order of conviction qua Mohammad Azam Khan shall remain stayed/suspended during pendency of his criminal revision, but prayer for stay of judgement and order of conviction qua Dr. Tanzeen Fatima and Mohammad Abdullah Azam Khan is rejected.

34. Three separate applications all bearing Application No. 1 dated 23.02.2024 U/s 389(1) r/w 397/401 Cr.P.C., which have been moved for stay the impugned judgment and order dated 18.10.2023 of conviction as affirmed by appellate Court vide its judgment and order dated 23.12.2023 stands disposed of accordingly.

Order Date :- 24.5.2024

Ishrat