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**(2011) 10 AHC CK 0076**

**Allahabad High Court**

**Case No:** Government Appeal No. - 6226 of 2004

State Of U.P.

APPELLANT

Vs

Jaiveer Singh Goswami

RESPONDENT

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**Date of Decision:** Oct. 31, 2011

**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 171, 376, 506, 511

**Hon'ble Judges:** Devendra Pratap Singh, J; Ashok Pal Singh, J

**Bench:** Division Bench

**Final Decision:** Dismissed

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### **Judgement**

1. Heard learned A.G.A. for the State.

2. This application has been filed by the State of U.P. with the prayer that leave to appeal may be granted against the judgment and order dated 3.8.2004 passed by Sri Jaisheel Pathak, Additional Sessions Judge,/FTC No.1, Ghaziabad in Sessions Trial No.151 of 1998 whereby the respondent had been acquitted for the offence punishable under sections 376/511, 506, 171 I.P.C.

3. We have perused the judgment of trial court and lower court's record.

4. The prosecution story in brief is that while the prosecutrix was going to her relatives" house on a bicycle she was accosted by the respondent accused claiming to be a police officer and took her to a nearby field and attempted rape on her whereupon she cried for help when one Jagvir and two constables came and caught the accused and took him to the Police Station where a case was registered. The Investigating Officer after completing investigation, submitted a charge sheet but in the trial the accused has been acquitted.

5. It is urged that there was sufficient evidence on record to prove the incident and the trial court has erred in acquitting the accused.

6. A perusal of the record shows that the trial court has examined each and every document and has given cogent reason for acquitting the respondent accused. It is noteworthy that the complete denial of the prosecutrix and the alleged eye witness Jagvir that they knew each other from before was found to be incorrect on the basis of documentary evidence. It is also apparent that the prosecutrix has given contradictory statement with regard to the incident and in fact, even the site plan was not prepared in front of her or other alleged eye witnesses.

7. In our opinion the view taken by the learned Sessions Judge is based upon proper appreciation of evidence on record. The findings recorded by the Trial Judge do not require any reconsideration. There is no illegality or perversity in the impugned order.

8. Accordingly, leave to appeal is refused and the application is rejected.

Since leave to appeal has been refused, the appeal is also dismissed.