

**(2013) 03 AHC CK 0139**

**Allahabad High Court**

**Case No:** None

Seema Devi and Anr.

APPELLANT

Vs

State of U.P. and Others

RESPONDENT

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**Date of Decision:** March 22, 2013

**Hon'ble Judges:** Ravindra Singh, J and Anil Kumar Agarwal, J

**Final Decision:** Disposed Of

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### **Judgement**

Anil Kumar Agarwal, J.

Heard the learned counsel for the petitioners, the learned A.G.A. and counsel for the complainant.

This petition has been filed by the petitioners Smt. Seema Devi and Ajay @ Bantul with a prayer to quash the F.I.R. in case crime no. 35 of 2013 under sections 363, 366 I.P.C. and 3(2) V of SC/ST Act, Police Station Sultanpur Ghosh District Fatehpur.

From the perusal of the F.I.R. it appears that on the basis of the allegations made therein prima facie cognizable offence is made out. There is no ground for interfering. In the F.I.R. Therefore, the prayer for quashing the impugned F.I.R. is refused.

However, considering the submission made by the learned counsel for the petitioners that the kidnapped girl Km. Seema Devi is major and she has performed the marriage with petitioner no.2 Ajay @ Bantul and she is living in his company as his house wife with her free will and consent, it is directed that in case the alleged kidnapped girl Km. Seema Devi appears/ produced before the court of learned C.J.M. Fatehpur within 20 days from today and moves an application for her medical examination for recording her statement under section 161 Cr.P.C. and 164 Cr.P.C., the learned magistrate concerned shall fix a date for the same purpose and shall summon the first informant and officer in charge of the police station concerned for the purpose of her identification and to record her statement under section 161 Cr.P.C. after her identification by them, she shall be medically examined by the

C.M.O. concerned to determine her age, then she shall be interrogated by the I.O. and her statement shall be recorded under section 161 Cr.P.C., if thereafter, the I.O. moves an application before learned magistrate concerned to record her statement under section 164 Cr.P.C., her statement shall be recorded under section 164 Cr.P.C. if she is found major and does not support the F.I.R. version, the petitioners shall not be arrested till submission of the police report under section 173(2) Cr.P.C. but the petitioners shall cooperate with the investigation.

In case she appears to be minor or she is major and supports the prosecution version, the I.O. shall be free to arrest the accused person. It is further directed that issue of custody of the alleged kidnapped girl shall be decided by the C.J.M.concerned in accordance with law.

It is further directed that in case the petitioners approach the S.P.Fatehpur to provide them protection for the purpose of appearing before the court concerned to record the statement of the kidnapped girl Km. Seema Devi under section 164 Cr.P.C. and for medical examination, the same shall be provided.

With the above direction this petition is finally disposed of.