
(2012) 01 AHC CK 0570

Allahabad High Court

Case No: Criminal Misc. Bail Application No. - 1557 of 2011

Rahul

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision: Jan. 13, 2012

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 164
- Penal Code, 1860 (IPC) - Section 376

Hon'ble Judges: Kalimullah Khan, J

Bench: Single Bench

Final Decision: Dismissed

Judgement

Hon"ble Kalimullah Khan, J.

Heard learned counsel for the applicant and the learned A.G.A. for the State and perused the record. Smt. Madeena a married lady who is the daughter in law of the complainant is said to be deaf and dumb. She had gone to collect the grass for the animals in the field. Present accused applicant is said to have committed rape upon her which has been witnessed by the other companions of the victim, who had gone there to collect the grass, were collecting the same in different directions at some distance. The report was made to the police station but they tried to minimize the offence and challaned the accused applicant in an Excise Act and later on released him on bail. However, the F.I.R. was registered u/s 376 I.P.C. on active effort made by the complainant.

2. It is contended by the learned counsel for the applicant that applicant is in jail since 3.8.10. Prosecutrix is the mother of two issues and is aged about 40 to 45 years. F.I.R. is belated by 10 days. Investigating Officer says that he has recorded her statement which was not possible in view of the fact that the prosecutrix is admittedly deaf and dumb. The prosecutrix had volunteered to the medical examination after 2 days of the lodging of the report. About his false implication, learned counsel for the applicant has argued that applicant is carpenter and some labour charge was due on the complainant. When he

demanding the labour charge, he was falsely implicated in this case.

3. Per contra, learned private counsel for the complainant and learned A.G.A. have argued that victim the prosecutrix is deaf and dumb, but her statement has been recorded u/s 164 Cr.P.C. by the learned Magistrate with the help of an expert Sri Veer Pal Singh who possesses technical certificate for the said purpose issued by Ali Yawar Jang National Institute for the hearing handicapped, Mumbai. In her statement u/s 164 Cr.P.C. she has supported the prosecution case and have levelled the charge of rape against the applicant. Apart from that other prosecution witnesses including P.W. Shakeela are also there who have disclosed the complicity of this applicant in the crime alleged. No case for bail is made out. Application for bail stands rejected.