
(1988) 05 AHC CK 0066

Allahabad High Court (Lucknow Bench)

Case No: Criminal Miscellaneous Case No. 289 of 1998

Smt. Meena

APPELLANT

Vs

State of U.P. and
Others

RESPONDENT

Date of Decision: May 19, 1988

Acts Referred:

- Criminal Procedure Code, 1973 (CrPC) - Section 164
- Penal Code, 1860 (IPC) - Section 363, 366

Citation: (1999) 3 ACR 2642

Hon'ble Judges: Virendra Saran, J

Bench: Single Bench

Advocate: J.S. Tomar, for the Appellant; G.A., for the Respondent

Final Decision: Disposed Of

Judgement

Virendra Saran, J.

Heard learned Counsel for the applicant and the learned Government Advocate.

2. Smt. Meena is alleged to be a victim in an offence u/s 363/366. I.P.C. registered as Crime No. 35 of 1998 at P.S. Phardhan, distt. Kheri. The F.I.R. of the case was lodged by Krishna Kumar in which it was mentioned that his daughter had eloped with Randhir.

3. Smt. Meena has filed this application with the allegations that she is major and has entered into marriage with Randhir on 11.2.1998. A medical certificate of Chief Medical Officer, Kheri, has been filed as Annexure-2 which shows that according to doctor age of Smt. Meena was about 18 years. In Annexure-4 Smt. Meena has filed two coloured photographs along with Randhir showing some marriage ceremony going on. Smt. Meena and Randhir are present in Court. No doubt photographs are of the persons who are present in Court. From appearance Smt. Meena appears to be major. A copy of the marriage certificate of Arya Samaj Mandir, Barabanki has also been filed. Annexure-5 is

medical certificate of Dr. Ranjana Mishra, Obstetrician and Gynaecologist which shows that urine test for pregnancy has been found to be positive. This certificate is dated 10.4.1998.

4. A prayer has been made in this application that the statement of Smt. Meena be recorded u/s 164 Code of Criminal Procedure and the learned Counsel for the applicant has submitted that in case Smt. Meena falls in the hands of police she may be coerced to make statement in line with the prosecution case. He has further submitted that forcible abortion may also be done in case Smt. Meena falls in the hands of police. Learned Counsel has also submitted that father of Randhir has been arrested on the basis of the F.I.R. of Krishna Kumar at Lakhimpur-Kheri and is in jail.

5. Considering the entire facts and circumstances of the case the averments made in the affidavit do not appear to be without force and I am of the view that in the interest of justice the statement of Smt. Meena be recorded u/s 164 Code of Criminal Procedure.

6. In the result, this application is allowed. Learned C.J.M. Lucknow, shall, on the production of a copy of this order before him, record the statement of applicant Smt. Meena u/s 164 Code of Criminal Procedure Applicant shall file an application for recording statement along with copy of this order in the first part of the working day. Applicant shall also file three sets of the coloured photographs (which have been filed as Annexure-4 in this application) before the C.J.M. The learned Chief Judicial Magistrate, Lucknow, shall affix on set of photographs on the statement of Smt. Meena and shall keep another set in sealed cover. He shall send a copy of the statement so recorded to Investigating Officer of Crime No. 35 of 1998 registered at P.S Phardhan, distt. Kheri. He shall forward original statement so recorded to learned C.J.M. Kheri, who in turn shall forward the same to concerned Magistrate, incharge of cases of P.S Phardhan. Third copy of the statement so recorded affixed with one set of photograph having seal of the Court shall be supplied to Smt. Meena.

7. Before parting with, I would like to observe that on questioning Smt. Meena. it appears that she is not under any duress and she can give statement of her own free will.

8. With the above directions, this application is disposed of finally.