

(2009) 10 AHC CK 0224**Allahabad High Court****Case No:** None

State of U.P.

APPELLANT

Vs

Babu and Others

RESPONDENT

Date of Decision: Oct. 22, 2009**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 120B, 342, 376, 506

Hon'ble Judges: Uma Nath Singh, J; S.N.H. Zaidi, J**Bench:** Division Bench**Final Decision:** Dismissed**Judgement**

1. This application for leave to appeal arises out of judgment dated 06.07.2009 passed by learned Additional Sessions Judge/FTC-4, Lakhimpur Kheri in Sessions Trial Nos. 1210 of 2003 recording acquittal of accused-respondents in an offence registered under Sections 342 and 376 read with Section 120-B I.P.C.

2. It appears from the prosecution case narrated in the impugned judgment that on 25-07-2003 all the accused persons trespassed into the house of complainant Ram Dayal and forcibly picked up his daughter, aged about 13 years, and then confined her to one closed room and then one of the accused Babu forcibly committed sexual intercourse with her and other three co-accused remained sitting outside the house. The explanation of delay in the lodgment of the report given by complainant was that his complaint was not recorded/registered at Police Station, therefore, he made a separate complaint to the concerned Superintendent of Police on 06.08.2003, and pursuant thereto the F.I.R was lodged on 17.08.2003.

3. After investigation, the police put up a challan under Sections 342, 376 and 506 I.P.C and finally the accused were tried upon only for offences under Sections 342 and 376 read with Section 120-B I.P.C. Prosecution examined seven witnesses apart from placing on record documentary evidence. Accused persons, viz, main accused Babu son of Khushi, Munim son of Kalicharan, Santu son of Hardeo and Malikhe son

