

Court No. - 92

Case :- APPLICATION U/S 482 No. - 4964 of 2015

Applicant :- Smt. Sangeeta Devi And 2 Others

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- J.K. Mishra

Counsel for Opposite Party :- Govt. Advocate

Hon'ble Anish Kumar Gupta,J.

1. Heard Sri J.K.Mishra, learned counsel for the applicants and Sri Prem Prakash Tiwari, learned A.G.A. for the State.

2. The instant application has been filed seeking quashing of the charge-sheet dated 15-11-2014 in case crime no. 320 of 2013, under Sections 320 of 2013, under Sections 363, 366 IPC, P.S. Kamalganj, district Farrukhabad.

3. Learned counsel for the applicants submits that the victim in her statement under Section 161 Cr.P.C. has admitted that she had gone voluntarily with Manoj with whom she has solemnized the marriage on 20-08-2014 out of her free will and both of them use to have physical relationship. Learned counsel for the applicants further submits that despite the aforesaid fact as stated by the victim in her 161 Cr.P.C. statement, the opposite party no.2 has lodged the instant F.I.R. against the applicants herein on false and fabricated story. Learned counsel for the applicants further submits that as per the medical report the age of the victim was above 18 years and she had gone voluntarily out of her sweet will and she has not made any allegation against any of the accused, therefore, learned counsel for the applicant has prayed for quashing of the charge-sheet and the entire proceedings arising out of the said charge-sheet against the applicants herein who are the real sister of the main accused Manoj and other relatives of the said Manoj.

4. Per contra, learned A.G.A. submits that in the F.I.R. the age of the victim has been recorded as 16 years on the date of the incident i.e. 29-11-2013 and all the applicants were named in the F.I.R. The 161 Cr.P.C. statement was recorded by the police at Farrukhabad and she was produced from the custody of the applicants and the said Manoj, therefore, the said statement was given by the victim due to the pressure of the accused persons. Learned A.G.A. further submits that in her 164 Cr.P.C. statement recorded on 18-10-2014, she has categorically stated the role of all the accused persons including the applicants herein and she was kept in confinement at

Haridwar and she wanted to go her parents house. As per the medical report which was conducted on 17-10-2014 the radiological age of the victim was determined as above 18 years and the incident has taken place on 29-11-2013, therefore, as per the medical report on the date of the incident when the victim was abducted she was minor. The offence under Sections 363 and 366 IPC is prima facie made out against all the accused persons, therefore, no interference is called for in exercise of jurisdiction under Section 482 Cr.P.C..

5. Having heard the rival submissions made by the learned counsel for the parties and this Court has gone through the record of the case, though there are various contradictions in the 161 Cr.P.C. statement as well as 164 Cr.P.C. statements of the victim, however, on the face of it even as per the medical report on the date of the incident the age of the victim was less than 18 years, therefore, she was minor on the date of the incident. In her 164 Cr.P.C. statement she has categorically assigned role to all the accused persons including the applicants herein in abducting her.

6. Hence, in the considered view of the Court, there is no illegality in the charge-sheet , therefore, the instant application is devoid of merits and is accordingly **dismissed** in the light of judgments of Apex Court in **R. P. Kapoor Vs. State of Punjab, AIR 1960 S.C. 866; State of Haryana v. Bhajan Lal, 1992 Supp (1) SCC 335 : 1992 SCC (Cri) 426] and Neeharika Infrastructure Pvt. Ltd. vs. State of Maharashtra and Others : 2021 SCC OnLine SC 315.**

Order Date :- 7.11.2023

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