

IN THE HIGH COURT OF MADHYA PRADESH
BENCH AT INDORE

(SB: Hon'ble Mr. Justice Alok Verma)

CRR No.828/2015

Chimanlal S/o Laluram

Vs.

State of MP

Ms. Archana Kher, learned counsel for the applicant.
Shri Bhuvan Deshmukh, learned counsel for the respondent/State

JUDGMENT

(Delivered on this 16th day of July, 2015)

This Criminal Revision is directed against the order passed by learned Additional Sessions Judge, Badnagar, District – Ujjain in Sessions Trial No.221/2015 dated 05.06.2015 whereby, learned Additional Sessions Judge framed charges against the present applicant under sections 363, 366, 376(2) and 506 (2) of IPC and under section 4 of Protection of Children from Sexual Offences Act, 2012.

According to the prosecution story, on 11.03.2015, it is alleged that the prosecutrix when she went at about 8:30 pm behind her house to answer call of nature, was abducted by the present applicant alongwith Mishrilal Yadav. It is further alleged that they

took the prosecutrix to the house of Mishrilal Yadav located at village Kharsodkala and there, present applicant Chimanlal Yadav and another co-accused Kamal Yadav committed rape on her. Next day, she was taken to Badnagar where, she was kept in a room of Bhil. On 18.03.2015, accused Chimanlal Yadav and Kamal Yadav came and took her to another place. From there, it is alleged that she was left at Tea Stall and from there she came back to home on her own.

This order framing charges against the present applicant under aforementioned provisions of law was challenged by the applicant on the ground that the prosecutrix was traced on 19.03.2015. On that very day, her statement under section 161 of Cr.P.C. was recorded and immediately thereafter, her statement under section 164 of Cr.P.C. was also recorded and in both these statements, she narrated rather truncated story and there she stated that present applicant met her and took her to the room of a Bhil person and there she was kept and during all these period, she was not raped by anybody. However, after four days, another statement under section 161 of Cr.P.C. was recorded in which she stated the whole story as described above.

Learned counsel for the applicant submits that in view of her three different versions, it is apparent that present applicant was falsely implicated. She further submits that her age according to the

school certificate was more than 18 years and she also stated that earlier also, the prosecutrix lodged a complaint against the present applicant which was registered as Crime No.176/2014 at Police Station – Bhatpachlana, District Ujjain. She further submits that in reality, present applicant was engaged to the prosecutrix and due to some reason, marriage could not be materialized and therefore, she now levells false allegation against him.

After going through the copies of the charge-sheet which is filed alongwith the application, I find that the effect of her three statements specially the statement given on 23.03.2015, can only be asserted after recording of all the statements. In this statement, in the last para, she stated that due to threat given by the present applicant, she could not narrated real story earlier. This fact if true, should explain her earlier statements. This apart, the fact that she was more than 18 year and other such relevant facts like her previous complaint against the present applicant, can also be judged after recording complete evidence in this matter.

At this stage, taking all the facts and circumstances of the case that emerge from the charge-sheet, the order passed by learned Additional Sessions Judge do not seem to have suffered from any irregularity and illegality. At this stage of framing of charges, only prima facie, the case as it emerge from the charge-sheet, is to be seen. In this view of the matter, no case is made out for interference

under section 397 read with section 401 of Cr.P.C.

Accordingly, this criminal revision being devoid of merit is liable to be dismissed and is hereby dismissed.

C.c as per rules.

(Alok Verma)
Judge

Kratika/-