

(2021) 02 MP CK 0074
In the Madhya Pradesh High Court
Case No : Writ Petition No. 2571 Of 2021

Ashish Jatav

APPELLANT

Vs

State Of M.P. And Ors

RESPONDENT

Date of Decision : 09-02-2021

Acts Referred:

Constitution Of India, 1950 — Article 226
Indian Penal Code, 1860 — Section 376, 506
Scheduled Castes And The Scheduled Tribes (Prevention Of Atrocities) Act, 1989 —
Section 3(1)(w)(ii), 3(2)(va)
Code Of Criminal Procedure, 1973 — Section 164

Citation : (2021) 02 MP CK 0074

Hon'ble Judges : Sheel Nagu, J;Anand Pathak, J

Bench : Division Bench

Advocate : Anil Mishra, Ankur Mody

Final Decision : Allowed

Judgement

Anand Pathak, J

The instant petition preferred under Section 226 of Constitution Of India is in the nature of writ of habeas corpus. Petitioner is cousin of prosecutrix

and she filed the complaint on which FIR was registered vide Crime No.87/2021 at Police Station Morar, Gwalior for the offence punishable under

Sections 376 and 506 of IPC alongwith Sections 3(1)(w)(ii) and 3(2)(va) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act

(for brevity â??Atrocities Actâ?). As per the allegation, she was subjected to rape by miscreants namely Aditya Bhadoriya and his friend, but it is the

grievance of the petitioner that after lodging of FIR, police did not investigate the matter properly and did not take her to the concerned magistrate for

recording statement under Section 164 of Cr.P.C. and illegally detained and

confined her as well as her parents and ill-treated them.

It is the submission of counsel for the petitioner that it is the duty of Police Authority to investigate the case lodged by the corpus against the accused

persons for commission of offence of rape under Sections 376 and 506 of IPC alongwith Sections 3(1)(w)(ii) and 3(2)(va) of Atrocities Act and

should have conducted free and fair investigation but it appears that they are trying to cover-up the story and therefore, detained the parents of

prosecutrix and referred the prosecutrix to One Stop Center for not reason.

Learned Additional Advocate, General on the basis of instructions received, informed this Court that she had not been illegally detained and she had

been referred to One Stop Center being victim. However, he informs this Court a video link has been provided at One Stop Center and from where

corpus has appeared before this Court. Learned Additional Advocate General undertakes that FIR registered by the corpus shall be duly investigated

by the Investigating Officer in free and fair manner without being influenced by any extraneous consideration and after investigation, consequential

follow-up action shall be ensured. He further submits that since corpus is available at One Stop Center then, purpose of filing of instant petition is over.

When this Court asked the corpus about her willingness, then she instantly submits that she intends to go her maternal home and wants to live with her

parents.

Petitioner, cousin of prosecutrix and is appearing alongwith his counsel through Video Conferencing submits that if corpus intends to go her maternal

home to live with her parents, then he has no objection and purpose of filing of this petition is over.

Heard learned counsel for the parties at length through VC and considered the arguments advanced by them.

The instant writ petition is in the nature of habeas corpus. From the respective submissions and conversation with corpus indicate that she is at One

Stop Center and wants to move to her parents' home therefore, in the facts and circumstances of the case, she is directed to be released from One

Stop Center, Gwalior and concerned Authorities are directed to handover the custody of corpus safely in the hands of her parents forthwith. Since, her

date of birth as appeared in the FIR is of 2006, therefore, she appears to be a minor/juvenile prima facie, therefore, she should be safely transported to

her parents' home or custody be given in the hands of her parents at One Stop Center.

Respondent/Authorities especially Station House Officer, Police Station Morar, Gwalior is expected to investigate the matter in accordance with law

in just free and fair manner and would ensure consequential follow up action as per law.

Petition stands allowed and disposed of in above terms.