
(2007) 05 AHC CK 0172

In the Allahabad High Court

Case No : Criminal Miscellaneous Application No. 11739 of 2007

Jag Devi and Another

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 30-05-2007

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 164

Citation : (2007) 05 AHC CK 0172

Hon'ble Judges : R.K.Rastogi, J

Final Decision : Disposed Of

Judgement

R.K. Rastogi, J.—This is an application under Section 482 Cr.P.C. for issuing direction to the Additional Chief Judicial Magistrate, Hamirpur to record the statement of applicant No. 1 under Section 164 Cr PC in case No. 117 of 2007, State v. Radhey Shyam, and for issuing direction to him to decide the aforesaid case expeditiously.

2. Heard learned Counsel for the applicant and learned A.G.A. and perused the papers on record.

3. It is to be seen that as laid down by the Hon''ble Apex Court it is the right of the Investigating Officer to get the statements of the witnesses recorded under Section 164 Cr.P.C. during investigation. When the Investigating Officer has not made any such prayer, then no other party can make a prayer for recording statement of any person under Section 164 Cr.P.C. It is also to be seen that statements of witnesses under Section 164 Cr.P.C. are recorded during investigation only. In the present case, the chargesheet has already been submitted under Sections 363 and 366 I.P.C. and the cognizance has also been taken by the Court. So, now the stage of recording statements under Section 164 Cr.P.C. has come to an end. The applicant No. 1 who has been described as Prosecution Witness No. 2 in the list of witnesses on the back of the chargesheet may give her statement before the Court whenever she is summoned for that purpose.

4. As regards, the prayer for speedy trial of the case it is to be seen that the applicants have not filed any copy of the order sheet of the case to show as to who is responsible for delay in trial of the case. The chargesheet has been submitted against Radhey Shyam applicant No. 2. It is not clear whether Radhey Shyam has put in appearance in the aforesaid case so far or not.

5. It appears from the affidavit filed in support of the present application that petitioner No. 1 has married petitioner No. 2.

6. In these circumstances, petitioner No. 2 may appear before the Court concerned at an early date, and after his appearance, the Court shall hear and dispose of the case expeditiously.

7. The application under Section 482 Cr.P.C. is disposed of finally with the above observations.