
(2016) 05 MP CK 0006
In the Madhya Pradesh High Court
Case No : MCRC No. 6476 of 2016

Raja Burman @ Rahu

APPELLANT

Vs

State of Madhya Pradesh

RESPONDENT

Date of Decision : 04-05-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 161, 439
Penal Code, 1860 (IPC) — Section 376

Citation : (2017) 1 CriCC 143 : (2017) 2 Crimes 172 : (2016) 3 RCRCriminal 155

Hon'ble Judges : Atul Sreedharan, J.

Bench : Single Bench

Advocate : K.S. Patel, learned Panel Lawyer, for the Respondent

Final Decision : Dismissed

Judgement

Atul Sreedharan, J. - Mr. Kaustubh Singh, learned counsel for the applicants.

1. Mr. K.S. Patel, learned Panel Lawyer for the respondent/State.

This is an application U/s.439 of Cr.P.C. in connection with Crime No.26/16 registered at P.S. Burhar, Shahdol for offences U/s.376, 305/34 of I.P.C. and Section 5/6 of POCSO Act.

2. This is a case where a minor girl allegedly in a relationship with the applicant herein on the false pretext of marriage is said to have become pregnant by the applicant on account of which, she committed suicide.

Learned counsel for the applicant states that the applicant has been framed in this case and that the deceased was in relationship with one Priyanshu, who was a minor.

Learned counsel for the State on the other hand has read out the statements under Section 161 of the Cr.P.C. of Chandrawati, mother of the deceased and also of Sakshi, who is friend of the deceased, wherein these witnesses have stated that the applicant herein had illicit relationship with the deceased on

account of which she became pregnant.

3. Be that as it may, looking to the facts and circumstances of the case, I am currently not inclined to allow the instant application for grant of bail to the applicant Raja Burman @ Rahul under Section 439 of Cr.P.C. and therefore dismiss the same. It has been seen that in number of cases relating to rape, the most powerful investigative tool which is available to the police is the DNA test which is seldom being resorted to. The DNA report can either confirm or exclude the involvement of the accused. The police is directed that in every case under Section 376 of I.P.C.:-

(a) under which the doctor preparing the MLC of the prosecutrix prepares vaginal slides and clothing of the prosecutrix, which upon test by the FSL confirms the presence of human sperm then such slides must then be sent for DNA verification with the blood sample of the suspect.

(b) where the prosecutrix is rendered pregnant on account of the rape and if birth takes place, then a DNA verification be sought to ascertain paternity of the child which will again either confirm or exclude the suspect. If the foetus is aborted, then the tissue sample of the foetus be tested alongwith the sample of the suspect to see if they match, and

(c) in the event of the death of the prosecutrix during pregnancy, then also procedure enunciated in (b) to be followed.

4. Learned counsel for the State is requested to transmit a certified copy of this order to the Director General of Police, M.P. for its further transmission to Superintendents of Police of various districts, so that such cases u/s 376 of I.P.C. are effectively investigated and promptly dealt with.