

**Court No. - 10**

**Case :-** APPLICATION U/S 482 No. - 5233 of 2014

**Applicant :-** Srinivas And Ors.

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

**Counsel for Applicant :-** Shivam Sharma

**Counsel for Opposite Party :-** Govt. Advocate, Rahul Agnihotri, Ramesh Chandra Gupta

**Hon'ble Dinesh Kumar Singh, J.**

1. Heard Sri Shivam Sharma, learned counsel for the petitioners, Sri Rao Narendra Singh, learned A.G.A. for the State-respondent and Sri Ramesh Chandra Gupta, learned counsel for respondent no. 2.

2. Present petition under section 482 Cr.P.C. has been filed seeking quashing of the proceedings of Sessions Trial No. 510 of 2014, State of U.P. Versus Girijadayal and others, pending in the court of learned Additional Sessions Judge, Court No. 5, Lakhimpur Kheri.

It has further been prayed to quash the order dated 03-11-2014 passed in the aforesaid Sessions Trial No. 510 of 2014.

3. The allegation against the petitioners, who are the real brothers, and his 81 years old father is that they had gang-raped the prosecutrix, a married woman, having two grown up children, aged around 13 years and 11 years.

4. The police after investigating the offence submitted final report exonerating the petitioners and their father for committing the offence. Since, the prosecutrix was not satisfied with the said final report, she filed a complaint before the Uttar Pradesh State Women Commission, Lucknow.

5. The Uttar Pradesh State Women Commission, Lucknow directed the Superintendent of Police, Kheri to submit a detailed report in the matter.

6. The Superintendent of Police, Kheri, submitted a report on 31-03-2012 before the Uttar Pradesh State Women Commission, Lucknow specifically stating that the case set up by the prosecutrix, was completely a false case. The prosecutrix wanted to persecute the petitioners with malafide intention, and the report lodged by the prosecutrix was in retaliation of the report lodged against her husband and other relatives. It was said that the

Investigating Officer after investigating the offence, found that the case set up by the prosecutrix was completely a false case and recommended for taking action under section 182 I.P.C. against the prosecutrix.

7. Against filing of the final report exonerating the petitioners under section 173(2) Cr.P.C., the prosecutrix filed a protest petition, which was treated as a complaint case and after recording the statements of the prosecutrix and witnesses, the petitioners were summoned to face the trial for the offences under sections 366, 452 and 376 I.P.C. The trial court framed charges on 03-11-2014.

8. It is relevant to mention here that an F.I.R. under section 363 read with section 366 I.P.C. came to be registered on complaint of one of the accused persons, whose minor daughter was allegedly abducted by the husband of the prosecutrix and other relatives named in the F.I.R. As a measure of retaliation and vengeance, the prosecutrix has lodged these proceedings though the police did not find any evidence for commission of the offence by the four real brothers and their father.

9. This court's conscience also does not believe that four real brothers and their father would commit rape on a woman having two grown up children.

10. Considering all these facts and also taking into account the report submitted by the Superintendent of Police, Kheri to the Uttar Pradesh State Women Commission, Lucknow, this court finds that the impugned proceedings are nothing but an abuse of process of the court to falsely implicate the petitioners, who are the real brothers, and their father, aged around 81 years for the offence under section 376 I.P.C.

11. In view thereof, the present petition is **allowed** and the impugned proceedings of Sessions Trial No. 510 of 2014, State of U.P. Versus Girijadayal and others, pending in the court of learned Additional Sessions Judge, Court No. 5, Lakhimpur Kheri are hereby quashed.

**Order Date :- 19.7.2022**  
AKS