

THE HIGH COURT OF MEGHALAYA

Crl Petn No.1 of 2014

Smti Neh Phawa, w/o (L) Aming Shyrmang, r/o Salani Colony Mihmyntdu, West Jaintia Hills District, Meghalaya.

..... **Applicant**

-Versus-

State of Meghalaya

..... **Respondent**

Dr. ODV Ladia, Advocate, present for the petitioner

Shri ND Chullai, Senior GA, present for the respondent

Date of Judgment and Order 25th February, 2014

JUDGMENT AND ORDER

ORAL: HON'BLE PRAFULLA C. PANT, CHIEF JUSTICE

Heard.

2. This criminal petition (revision) is directed against the order dated 06.02.2014 passed by the Sessions Judge, West Jaintia Hills District, Jowai in GR Case No. 131/13, whereby said Court has declined to discharge the accused Salanmiki Phawa @ Mi Phawa and directed to frame charge against him in respect of offence punishable under Section 376 IPC. The trial court further declined to grant bail to the applicant.

3. Briefly stated prosecution story is that on 12.07.2013 between 7:15 to 7:30 PM when the victim was returning from the market, near the house of one Wonde Shullai, she was dragged in a Maruti Car of aluminum colour and taken to a lonely place where she was tied with a tree, thereafter she was dragged and subjected to rape. The accused took the cell phone of the victim so that she may not complain about the incident.

4. Learned counsel for the applicant argued that medical evidence on record does not corroborate the statement of the victim relating to commission of rape. It is further pointed out that other two accused, namely, Sakwit Phawa and Teilangmiki Suchiang have been discharged by the trial court.

5. On perusal of the paper and record, this Court finds that as to the aforesaid two accused, namely, Sakwit Phawa and Teilangmiki Suchiang, the Investigating Officer himself has submitted report that no offence is made out as against said accused. But as against the accused Salanmiki Phawa @ Mi Phawa, charge-sheet has been filed for his trial in respect of

offences punishable under Section 341 and 376 IPC. The impugned order passed by the trial court shows that after hearing the parties on the basis of the evidence collected by the Investigating Officer it was found that only the ingredients of offence punishable under Section 376 IPC are made out against the accused Salanmiki Phawa @ Mi Phawa.

6. It is relevant to mention here that at the stage of framing of the charge, the trial court has not to examine the truthfulness of the evidence but it has to see that from the evidence/material collected by the Investigating Officer whether the ingredients of the alleged offences in respect of charge-sheet filed, are made out against the accused or not. Having gone through the papers on record and after considering the submissions of the rival parties, this Court finds no force in this criminal petition/revision.

7. Therefore, without expressing any opinion as to the final merits of the case, pending before the trial court, this criminal petition (revision) is dismissed summarily.

CHIEF JUSTICE