

**Vikas Rusia Vs. State of M.P.**

**Vikas Rusia Vs. State of M.P.**

**SooperKanoon Citation :** [sooperkanoon.com/501688](http://sooperkanoon.com/501688)

**Court :** Madhya Pradesh

**Decided On :** Feb-13-2002

**Reported in :** 2002CriLJ2895; 2002(2)MPHT104

**Judge :** Narain Singh "Azad", J.

**Acts :** Code of Criminal Procedure (CrPC) , 1974 - Sections 161, 164 and 211;  
[Indian Penal Code \(IPC\), 1860](#) - Sections 376(2)

**Appeal No. :** Criminal Revision No. 8/2002

**Appellant :** Vikas Rusia

**Respondent :** State of M.P.

**Advocate for Def. :** Y. Dhande, Penal Lawyer

**Advocate for Pet/Ap. :** Rajendra Singh, Sr. Adv. and ;R.K. Shukla, Adv.

**Disposition :** Revision dismissed

**Judgement :**

ORDER

Narain Singh 'Azad', J .

1. Arguments heard.

2. On 24th November, 2001, First Addl, Sessions Judge, Chhattarpur, framed charge against this petitioner in Sessions Trial No. 138/2000, for offence punishable under Section 376(g) of the I.P.C., giving rise to this revision.

3. Referring to the first information report, the statement of Seema, the prosecutrix, which is recorded under Section 164 Cr.P.C, on 16th December, 1999, the affidavits sworn in by Seema so also her father Krishnapal Singh, and the medical report dated 5th December, 1999, it is submitted by Shri Rajendra Singh that in the F.I.R., the statement of Seema, the prosecutrix, recorded under Section 164 of the Cr.P.C, affidavit of Krishnapal Singh, father of the prosecutrix so also the affidavit of Seema, this petitioner is not alleged to have committed rape on the prosecutrix Seema.

4. It is also submitted by Shri Rajendra Singh that on a consideration of the report of the three doctors, who examined the prosecutrix, also, offence of rape may be taken to have been committed on Seema and hence, this petitioner deserves to be discharged.

5. In the F.I.R. which is recorded as Dehati Nalishi and lodged by the prosecutrix Ku. Seema at 5.15 p.m. on 1st December, 1999, in respect of alleged incident dated 1-12-1999, which is stated to have been committed at 2 p.m., this petitioner is stated to have caught hold of Seema at the time of the alleged incident. Then, in Police statements of Ku. Seema so also her father Krishnapal Singh, which are noted to have been recorded on 3rd December, 1999, this petitioner is also stated to have committed rape on the prosecutrix Ku. Seema.

6. The statements recorded under Section 164 of the Cr.P.C. so also the affidavits of the prosecutrix and her father are not to be considered or taken into account at the stage of framing of charge. More so, the same cannot be weighed to disbelieve or discard the statements recorded under Section 161 of the Cr.P.C. and the F.I.R.

7. So far as report of doctors is concerned, at the stage of framing charge, the same cannot be accepted to ignore the statements recorded under Section 161 of the Cr.P.C. Thus, on consideration of F.I.R., which is recorded as Dehati Nalishi

and the Police statement of Seema so also her father Krishnapal Singh, the learned First Addl. Sessions Judge, Chhatarpur, is found to have committed no illegality or impropriety in framing the charge against the petitioner for offence punishable under Section 376(g) of the I.P.C.

8. In the result, this revision does not merit, which is accordingly rejected at the stage of motion hearing.

**SooperKanoon - India's Premier Online Legal Search - [sooperkanoon.com](http://sooperkanoon.com)**