

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.138 OF 2015

Anil Sridhar Sakpal	...	...Applicant
v/s.		
State of Maharashtra		...Respondent

...

Ms.Megha Gowalani i/b Mr.Ganesh Gole for the Applicant.

...

CORAM : A.S.OKA &
A.A. SAYED, JJ.

DATED : 4 JULY 2016

P.C.:

Heard the learned Counsel appearing for the Applicant. The prayer in this Application under Section 482 of the Code of Criminal Procedure, 1973 is for quashing the charge-sheet. The charge-sheet has already been filed against the Applicant for the offence punishable under sections 354(A) (1),354(2)(B) and 506 of the Indian Penal Code, 1860.

2. The Applicant at the relevant time was a teacher in a school run by Raigad Zilla Parishad. The First Informant is a Block Education Officer, Panchayat Samiti, Panvel. The statements of the victims of the offence recorded by the Police are part of the charge-sheet. The victims of the offence were minor girls, who were studying in the school where the Applicant was employed.

3. Learned Counsel appearing for the Applicant is relying upon the Affidavits allegedly affirmed by the parents before the Executive Magistrate, Panvel. The said Affidavits are contrary to the statements of the parents, which are recorded by the Police under section 161 of the Criminal Procedure Code, 1973.

4. Learned Counsel appearing for the Applicant invited our attention to the order passed by this Court on Anticipatory Bail Application filed by the Applicant. She submitted that the said Affidavits were relied upon in the Anticipatory Bail Application and ultimately, this Court granted the Anticipatory Bail Application.

5. In the present case, charge-sheet has already been filed. Affidavits which are relied upon are contrary to the statements of the parents recorded during the investigation. Apart from the statements of the parents, there are statements of the victims recorded by the Police, which are part of the charge-sheet. Therefore, the worth of such statements made in the subsequent Affidavits can be decided only at the time of trial.

6. We have perused the order granting anticipatory bail. The said order was passed when investigation was not complete. The First Information Report was registered on 2 April 2014 and the charge-sheet was filed on 21 August 2014. The order granting anticipatory bail is passed on 25 July

2014. Perusal of the charge-sheet shows that the statements of at least four minor victims girls have been recorded, which show the complicity of the Applicant. Therefore, the observations made by this Court in the order granting anticipatory bail cannot be relied upon.

7. Considering the fact that the charge-sheet has been filed and the charge-sheet contains the statements of the victims girls, only on the basis of subsequent Affidavits filed by the parents of the victims girls for supporting the Applicant, the proceedings cannot be quashed by exercising power under section 482 of the Code of Criminal Procedure, 1973. It is well settled that the power under section 482 has to be exercised sparingly and in rare cases. Looking to the seriousness of the offence and the statements of the victims of the offence, we are of the view that extra ordinary power under section 482 cannot be exercised in the present case.

8. Accordingly, we dismiss the Application. We, however, make it clear that the observations made in this order are only for limited purpose for considering the prayer under section 482 of the Code of Criminal Procedure 1973. The said observations shall not be construed as any finding on merits. All contentions on merits are expressly kept open.

(A.A. SAYED, J.)

(A.S.OKA, J.)