

K**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION****Criminal Appln. U/s 482 (Stamp) No.520 of 2016**

Mr. Rupesh Pravinbhai Dave

...Applicant

Versus

Mrs. Nila Rupesh Dave & Anr.

...Respondent(s)

*MR. HARDIK VYAS FOR THE APPLICANT.**MR. PANKAJ DAS FOR RESPONDENT NO.1.**DR. F.R. SHAIKH, APP FOR RESPONDENT NO.2/STATE.*

**CORAM: A.S. OKA &
 A.A. SAYED, JJ.****DATED: 7th June, 2016****PC:-**

1 The present Application under section 482 of the Code of Criminal Procedure, 1973 (for short "Cr.P.C.") is filed for quashing First Information Report registered against the Applicant for the offences punishable under section 376 of the Indian Penal Code and sections 3, 4, 7 and 8 of the Protection of Children from Sexual Offences Act, 2012. The alleged victim of the offences is a minor girl of the Applicant himself whose age at the relevant time was about 5 to 6 years. The first Respondent is the first informant who is the wife of the Applicant himself. A charge-sheet has been filed after completing the investigation and the case has been committed to the Court of Sessions.

2 Relief of quashing is sought on two grounds. The first ground is consent by the first informant who is the mother of the victim (wife of the Applicant). Secondly, the quashing is sought on merits. As far as merits are concerned, the learned Counsel appearing for the Applicant seeks permission to withdraw the Application with liberty to file an Application for discharge before the appropriate Court. The said request deserves to be allowed. As far as the ground of consent is concerned, we must note here that we are dealing with a serious offence against a minor girl of the Applicant.

2 The First Information Report was filed by the mother herself. We have perused the statement dated 24 February 2015 of the mother on the basis of which the FIR was registered. The statement records that certain facts constituting the offence were disclosed by the daughter to her teacher. The statement records that the mother took the minor child to a doctor named in the statement of the mother and the doctor noticed injuries on the private parts of the girl including injury which may be possibly caused by biting. As the Applicant is not seeking a relief on merits, we are not going to the merits. Suffice to say that the offence alleged is a very serious offence which affects the society at large. Therefore, prayer for quashing the offences under section 482 of the Cr.P.C. cannot be considered on the basis of so called consent of the mother who is the first informant. Therefore, while we are rejecting the

prayer for quashing the proceedings on the basis of consent of the first informant, we permit the Applicant to apply for discharge before the appropriate Court. We make it clear that the observations made in this order are only for a limited purposes of considering the prayer for quashing on the basis of settlement. The concerned Court dealing with the Application for discharge shall not be influenced by the said observations. Application is accordingly disposed of.

(A.A. SAYED,J.)

(A.S. OKA,J.)