

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL WRIT PETITION NO.2494 OF 2017

**Prashant Vilas Aynodkar
@ Prashant Phillip Aynodkar : Petitioner/Accused
versus
Kumari Madhuri Sudhakar Ugaokar
and ors. : Respondents.**

**Ms. Anjali Patil for the Petitioner.
Mr. Mahesh Thorat for the Respondent No.1.
Mrs. S D Shinde APP for the Respondent/State.
Ms. Shubhada D Khot for the Respondent No.3.**

**CORAM : R. M. SAVANT &
SANDEEP K SHINDE JJ.
DATE : 21st AUGUST, 2017**

PC.

1 The writ jurisdiction of this Court is invoked for quashing the FIR bearing CR No.169 of 2016 registered with the Chembur Police Station for the offences punishable under Sections 376, 420, 406, 323, 354, 509, 511 of the Indian Penal Code.

2 The first informant is the Respondent No.1 who is working in the U.S.A. on a ship known as “Disney Fantasy” as a security guard. The Petitioner is also working as a mess attendant on the said ship. The gravamen of the allegations against the Petitioner/Accused is that the Petitioner was trying to forcefully exploit the first informant for the purposes of sex. It is not necessary to dilate further on the said aspect as

the allegations are appearing in extenso in the FIR.

3 In respect of the incident which had taken place on the board the ship on 02/04/2016 an inquiry was conducted by Brevard County Sheriff's Office. The said inquiry was concluded by the Inquiry Officer holding that on account of conflicting statements and lack of independent witnesses, he was unable to establish probable cause for an arrest and accordingly suspended the case and refer the file for informational purposes only.

4 In so far as the present FIR is concerned, the same has been registered on 21/05/2016 with the Chembur Police Station, Mumbai. The learned Counsel appearing on behalf of the Petitioner i.e. the original accused made two fold submissions viz. that the sanction under Section 188 of the Criminal Procedure Code has not been obtained to inquire into the allegations made in the said FIR and/or for trial and therefore no inquiry could have been conducted by the police. The second submission is that since the allegations in respect of the incident which had taken place on 02/04/2016 have already been looked into and closed by the Brevard County Sheriff's Office, the FIR could not have been registered.

5 To the aforesaid submissions of the learned counsel for the Petitioner, the learned counsel appearing on behalf of the Respondent No.1 i.e. the complainant submitted that the instant FIR contains the allegations not only restricted to the incident of 02/04/2016 but other facts also. In so far as sanction required to be obtained under Section 188 of the Criminal Procedure Code is concerned, the learned counsel for the Respondent No.1 placed reliance on the judgment of the Apex Court reported in (1993) 3 SCC 609 in the matter of Ajay Aggarwal v/s. Union of India and others wherein the Apex Court has held that in so far as Section 188 is concerned, the previous sanction of Central Government is not a condition precedent to taking cognizance of offence and that such sanction can be obtained before commencement of trial.

6 Having heard the learned counsel for the parties, in our view, there is no merit in the above Criminal Writ Petition. In so far as sanction to be obtained under Section 188 of the Criminal Procedure Code is concerned, the judgment of the Apex Court in Ajay Aggarwal's case (supra) makes it clear that no sanction is necessary for taking cognizance and that such sanction can be obtained prior to commencement of trial meaning thereby the sanction is also not required for carrying out investigation. In so far as the second submission is concerned, the reliance placed by the learned counsel for the Petitioner

on the inquiry report of the Brevard County Sheriff's Office is, at this stage, misplaced.

7 Having regard to the fact that the FIR contains the allegations other than the one's relating to the incident which took place on 02/04/2016, the Petitioner can obviously refer to the said investigating report at the appropriate stage. Hence no case for grant of any relief is made out. The above Criminal Writ Petition is accordingly dismissed.

[SANDEEP K SHINDE, J]

[R.M.SAVANT, J]