

AFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.394 of 2017

Dr. Anil Khakhariya, S/o Late Sh. Premjibhai Khakhariya, aged about 58 years, resident of C/80/2, Devendra Nagar, Police Station Devendra Nagar, Raipur, Chhattisgarh

---- Applicant

versus

State of Chhattisgarh through Police Station Civil Lines, Raipur, Chhattisgarh

--- Respondent

For Applicant	:	Dr. N.K. Shukla, Senior Advocate with Shri Abhishek Vinod Deshmukh, Advocate
For Respondent	:	Shri Neeraj K. Sharma, Dy. Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

14.8.2018

1. The instant revision has been preferred against the order dated 8.3.2017 passed by the 7th Additional Sessions Judge, Raipur in Special Sessions Trial No.19 of 2016, whereby the application filed under Section 227 of the Cr.P.C. for discharge of the Applicant has been rejected.
2. As per the prosecution story, on the basis of a written report submitted by Rajiv Rai on 27.1.2015, Police Station Civil Lines, Raipur has registered crime against the Applicant under Section 506 of the Indian Penal Code and Sections 11(5) and 23(1) of the Protection of Children from Sexual Offences Act, 2012 (henceforth

'the Pocso Act'). In the written report, it was alleged that the prosecutrix, aged about 14 years, daughter of the Complainant, along with other players had gone for participation in National Table Tennis Competition held at Rajmundri at Andhra Pradesh in the last week of December, 2014. The son and daughter of the Applicant/accused had also gone with the team. The Applicant/accused, Complainant Rajiv Rai and wife of Rajiv Rai were also present there. It is further alleged in the said written report that the Applicant obtained CCTV camera footage of the hotel in which the team had stayed after return from the tournament and on the basis of said CCTV camera footage the Applicant levelled false allegations of character against the prosecutrix and other girls of the team. He also got the photos of the girls printed in the local newspaper of Raipur (Chhattisgarh) along with the allegations and he also got telecast the clippings of the said CCTV camera footage in the local TV channel. On completion of investigation, a charge-sheet has been filed against the Applicant under Section 506 of the Indian Penal Code and Sections 11(5) and 23(1) of the Pocso Act. Thereafter, the Applicant preferred an application under Section 227 of the Cr.P.C. for his discharge which has been rejected vide the impugned order dated 8.3.2017. Hence, this revision.

3. Learned Senior Advocate appearing for the Applicant/accused submits that during the stay at Hotel Jagdeshwari at Rajmundri, Andhra Pradesh, it was seen that in the night, coaches of the team were found involved in indecent activities with few of the girl players. The Applicant only informed the said incident to the President of the Table Tennis Association. Since the whole incident

took place in the hotel at Rajmundri, Andhra Pradesh, territorial jurisdiction falls with the competent Court situated at Rajmundri, Andhra Pradesh. But, the Court below at Raipur (Chhattisgarh) has wrongly observed that the journey for the National Table Tennis Competition commenced from Raipur (Chhattisgarh) and completed at Raipur itself, therefore, as per the provisions contained in Section 183 of the Cr.P.C., the Court at Raipur (Chhattisgarh) has jurisdiction to try the case. Learned Senior Advocate further submits that since the Applicant has only informed the authorities regarding indecent activities which relates to Rajmundri, Andhra Pradesh, the Applicant is also entitled to protection under Section 19(7) of the Pocso Act.

4. Learned Counsel appearing for the Respondent/State submits that though as per the evidence collected by the prosecution, the Applicant has obtained the CCTV camera footage from Rajmundri, Andhra Pradesh, allegedly he misused the same against the prosecutrix and other girl players of the team by circulating the same in the print and electronic media at Raipur (Chhattisgarh) and, therefore, offence under Section 506 of the Indian Penal Code and Sections 11(5) and 23(1) of the Pocso Act took place at Raipur (Chhattisgarh) and thus, the Court at Raipur has jurisdiction to try the case. From the language used in the written complaint dated 29.12.2014 made by the Applicant/accused and the allegations made therein against the prosecutrix and other girl players of the team, it does not reveal that the complaint is mere an intimation in good faith. Therefore, the Applicant is not entitled to get any protection as contained in Section 19(7) of the Pocso Act. Hence, the application moved by the Applicant under Section 227 of the

Cr.P.C. has rightly been rejected by the Trial Court.

5. I have heard Learned Senior Counsel appearing for the Applicant/accused and Learned Counsel appearing for the State/Respondent and perused the case diary with due care.
6. From perusal of the case diary, it reveals that vide seizure memo dated 30.1.2015, a paper-cutting of newspaper, namely, Patrika dated 4.1.2015 was seized and vide seizure memo dated 4.2.2015, some more newspaper cuttings were seized. Allegedly, all these were spread in public through the print and electronic media at Raipur (Chhattisgarh) by the Applicant/accused himself. From Rajmundri, Andhra Pradesh, the Applicant obtained only the CCTV camera footage, but he misused the same at Raipur (Chhattisgarh). Therefore, the offence under Section 506 of the Indian Penal Code and Sections 11(5) and 23(1) of the Pocso Act is held to be committed at Raipur (Chhattisgarh) not at Rajmundri, Andhra Pradesh and accordingly, the said offence is triable at Raipur (Chhattisgarh) as per the provisions contained in Sections 177 and 179 of the Cr.P.C.
7. Regarding protection of the Applicant/accused under Section 19(7) of the Pocso Act, from the case diary and the evidence collected by the prosecution, it is clear that in the written complaint dated 29.12.2014, the language used by the Applicant and the allegations levelled by him therein against the character of the prosecutrix and other girl players of the team are not considered to be a mere intimation in good faith. Therefore, in my considered opinion, the Applicant is not entitled to get any protection under

Section 19(7) of the Pocso Act. Therefore, the Trial Court has rightly rejected the application of the Applicant moved under Section 227 of the Cr.P.C.

8. Resultantly, I find no merit in the revision. It is, therefore, dismissed.

Sd/-

(Arvind Singh Chandel)
JUDGE