

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1152 OF 2017

Harry @ Wilson Vinfred Gabrier KarkadaApplicant
V/s.
The State of Maharashtra & Ors.Respondents

Mr. D.S.Chandnani, Advocate for Applicant.
Mr. A.R.Kapadnis, APP for the Respondent-State.

**CORAM :- R.M.SAVANT &
SANDEEP K. SHINDE, JJ.**

DATE :- 17TH JANUARY, 2018.

PC. :-

The above Criminal Application has been filed for quashing of the FIR lodged with Tulinj Police Station, Vasai for the offences punishable under Section 354 read with Sections 8,9 and 12 of the Protection of Children From Sexual Offences Act, 2012 ('**POCSO Act**'). The Applicant also seeks quashing of the charge-sheet which has been filed on 22.6.2015 for the offences punishable under Sections 354, 376 and the aforesaid provisions of the POCSO Act, 2012. The FIR contains the allegations against the Applicant in respect of incident which took place on 19.6.2015.

2 We have perused the statement recorded of the victim who is about 7 years of age as also her sister. The learned counsel

Shivgan

for the Petitioner seeks to rely upon the order dated 16.2.2016 passed by a learned Single Judge of this Court by which order, the Application for bail filed by the Applicant came to be granted wherein an observation was made that prima-facie, Section 376 of IPC is not attracted. The said observation is being relied upon to contend that if Section 376 is not applicable then Section 354 would also not be applicable. In our view, the said observation would not further the case of the Petitioner in so far as the offence under Section 354 is concerned and the offences under POCSO Act are concerned which are independent offences. In our view, no relief can, therefore, be granted to the Applicant in the above Application.

3 The above Criminal Application is, accordingly, dismissed.

(SANDEEP K. SHINDE, J.)

(R.M.SAVANT, J.)