

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPLICATION (MAIN) NO. 34 OF 2019

STATE OF GOA, THR. P.I., VASCO
POLICE STATION, VASCO.,

... Applicant

Versus

SAMUEL VINOD KUMAR.,

... Respondent

Shri S. R. Rivankar, Public Prosecutor for the applicant.

Shri Amey Prabhudessai, Advocate for the respondent.

Coram:- NUTAN D. SARDESSAI, J.

Date:- 24th April 2019

P.C.:

Heard Shri S.R. Rivankar, learned Public Prosecutor for the applicant who contended that there was sufficient material on record to connect the accused with the crime and therefore a good case to grant leave to appeal. He adverted to the statement of the victim apart from those of the two eyewitnesses and the mother of the victim and submitted that leave to appeal had to be granted. The testimony of the victim girl was duly corroborated by that of her mother which was sufficient to establish the crime against the respondent. The prosecution had a good case on merit and hence leave had to be granted.

2. Shri Amey Prabhudessai, learned Advocate for the

respondent submitted that the statement of the victim was not corroborated by the so called eyewitnesses and that the statement of the mother of the victim could not be accepted in the absence of any corroboration of the victim's statement. Besides, the Investigating Officer too had indicated during the course of his cross-examination that there was no corroboration of the version of the victim girl by the two eyewitnesses.

3. I have heard Shri S.R. Rivankar, learned Public Prosecutor for the applicant and Shri Amey Prabhudessai, learned Advocate for the respondent and besides perused the statements on record. It is apparent that although the victim does make an allegation of the respondent touching her inappropriately on the stated date and time, this fact of the matter has not been corroborated by the two so called eyewitnesses who were present in the classroom alongwith the victim. The only statement which remains for the prosecution is that of the mother which is purely based on the version given to her by the victim. The mother admittedly was not an eyewitness and therefore it is rather difficult to believe the version of the victim that the incident as stated by her had transpired on the said date as alleged by her. Moreover, the aspect of delay is not looked into and seeing that the mother of the victim had immediately made a grievance of the alleged act of the respondent to the school authorities who had initiated necessary enquiry and in view thereof and as nothing was

forthcoming on behalf of the management was she constrained to lodge the complaint to the police. The delay it appears has been accounted at her instance, however, the same is not possible in the circumstances of the case when there is no corroboration of the version of the victim by her two classmates who were the eyewitnesses to the alleged incident. It appears from the records that the State does not have a good case to succeed on merits and hence no leave is granted.

4. The application stands dismissed.

NUTAN D. SARDESSAI, J.

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