

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL REVISION APPLICATION NO. 138 OF 2023

Shri Nathu Shamu Sonavane
Versus
State Of Maharashtra

...Applicant

...Respondent

....

Mr. Prajakt M. Arjunwadkar Advocate for Applicant.

Mr. Y. Y. Dabake, APP for the Respondent – State.

....

CORAM : PRAKASH D. NAIK, J.

DATE : 26th JUNE, 2023.

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P.C.:-

1. The applicant has challenged the order dated 10th February 2023 passed by learned Extra Joint District Judge and Additional Sessions Judge, Ratnagiri below Exhibit-19 in Special Case No.14 of 2022 rejecting the application for discharge preferred by applicant in the said case arising out of C.R. No.77 of 2022 registered with Lanja Police Station, District Ratnagiri for offences punishable under Section 354-A of Indian Penal Code and Sections 8, 9(f), 9(m), 10, 12 of Protection of Children From Sexual Offences Act, 2012.

2. The First Information Report was registered on 24th April 2022 at the instance of father of the victim girl. Statement of victim girl was recorded on 24th April 2022.

3. The case of the prosecution is that, on 20th April 2022, the victim girl and her friend were called by the accused in the staff room for fixing stapler pins on the examination papers. Friend of the victim was sent to another room for keeping files. Accused told the victim to cover the computer. Therefore, the victim went to cover the computer. The accused, who is the head master of school, came behind the victim girl and pressed her chest and also put his hand inside her uniform slacks. Thereafter, accused sat on his chair and also touched the victim girl on her back and told her to stand near his chair. Thereafter, the accused started opening chain of his pant and pulled the victim girl towards him and told her to touch his private part. Since, the girl refused to do it, the accused removed the private part out and pulled victim's hand to touch and press it. The victim girl ran away from the spot.

4. Pursuant to registration of FIR, statement of witnesses were recorded. On completing investigation, charge-sheet was filed.

5. The applicant preferred an application for discharge, which has been rejected vide order dated 10th February 2023.

6. Learned Advocate for the applicant submitted that, the applicant has been falsely implicated in this case. There has been delay in lodging the complaint. The alleged incident in question had occurred on 22nd April 2022 whereas the FIR was lodged on 24th April 2022. The victim did not inform about the said incident to her father immediately nor to her friend, who

was accompanying her. The sister of the victim girl was also studying in the same school. Victim did not disclose the incident to her. There was no such incident in the past. The case of the prosecution suffers from serious discrepancies. The learned Trial Court has erroneously rejected the application for discharge.

7. Learned APP submitted that the statement of the victim girl and other witnesses are sufficient to support the case of the prosecution. At this stage, the defence of the accused if any, cannot be taken into consideration.

8. Perused the charge-sheet. Assuming that, there was delay of 4 days in lodging the FIR that could not be a ground for discharging the accused, considering the nature of offence and age of the victim girl, who was probably under trauma on account of the said incident. The victim girl is the student in the school where the accused is the head master. Statement of friend of the victim, who was accompanying her has been recorded. She has corroborated the fact that, she along with victim were called by the head master and they had gone to the staff room and from where she was asked to go to the another room. Statements of other friends of victim were recorded, who has stated that the victim girl had informed them about the incident. At this stage it is difficult to discard the version of the victim girl, who has narrated the incident in detail. The grounds urged by learned Advocate for applicant will have to be appreciated during the trial. The trial Court has rightly rejected the application. At the stage of discharge or

framing of charge, the detailed inquiry is not warranted. The court is not required to embark upon roving inquiry. Hence no case is made out to entertain this application..

ORDER

- (i) Criminal Revision Application No.138 of 2023 is rejected.
- (ii) It is clarified that, the observation made in this order are for adjudicating this application and the trial Court shall not be influenced by it during trial.

(PRAKASH D. NAIK, J.)