

(2021) 02 BOM CK 0020

In the Bombay High Court

Case No : Criminal Application (APL) No.25 Of 2015

Ganesh

APPELLANT

Vs

State Of Maharashtra And Others

RESPONDENT

Date of Decision : 10-02-2021

Acts Referred:

Code Of Criminal Procedure, 1973 — Section 482

Protection Of Children From Sexual Offences Act, 2012 — Section 23

Citation : (2021) 02 BOM CK 0020

Hon'ble Judges : Z. A. Haq, J; Amit B. Borkar, J

Bench : Division Bench

Advocate : Firdos Mirza, T. A. Mirza, S. D. Chande, M. V. Rai

Final Decision : Disposed Of

Judgement

Z. A. Haq, J

1. Heard.

2. The accused has filed this application under Section 482 of the Code of Criminal Procedure praying that the First Information Report registered against him for the offence punishable under Section 23 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as "the Act of 2012") be quashed.

3. The applicant-accused was Editorial Head of the daily "Lokmat" at Amravati District Office at the relevant time i.e. in 2014. The news item was published in "Lokmat Hello Amravati" on 23.12.2014, which according to the non-applicant no. 2-victim was objectionable, inasmuch as it disclosed her identity in connection with some illegal activities alleged to be going on in Child Care Home maintained by Vidarbha Maharogi Seva Mandal at Tapovan, Amravati. At the relevant time, the non-applicant no. 2-victim was aged about 17 years.

4. In response to the notice issued by this Court, the non-applicant no. 1-

Investigating Agency has filed its reply supporting its action of registering the First Information Report against the applicant. In the reply, the provisions of Section 23 of the Act of 2012 are reproduced and in paragraph no. 5 of the reply it is stated that the applicant-accused is responsible for publication of the name and disclosure of the identity of the non-applicant no. 2-victim, and therefore the applicant is liable for prosecution for offence under Section 23 of the Act of 2012.

5. With the assistance of learned Advocate for the applicant, learned A.P.P for the non-applicant no. 1/State and learned Advocate for the non-applicant no. 2-victim, we have gone through the concerned news item. We find substance in the submission of learned Advocate for the applicant that the news item does not disclose the name and identity of the non-applicant no. 2-victim. It is submitted on behalf of the non-applicants that the name of the non-applicant no. 2-victim is disclosed in the letter issued by the Chairperson of the Child Welfare Committee to the Child Care Home and the letter is published alongwith the news item in the "Lokmat Hello Amravati" and for this the applicant is responsible.

6. In spite of the repeated enquiries from the Advocates representing the non-applicants, we have not received any answer as to how the offence under Section 23 of the Act of 2012 is registered against the applicant. The provisions of Section 23 are in Chapter V of the Act of 2012 and Chapter V of the Act of 2012 provides for the procedure for reporting of cases. Learned A.P.P. and learned Advocate for the non-applicant no. 2-victim have not been able to show that any case relating to the non-applicant no. 2-victim was pending at the relevant time before any Court of law. Learned A.P.P. and learned Advocate for the non-applicant no. 2-victim have not been able to point out from the news item or the concerned letter that any material lowering the reputation of the non-applicant no. 2-victim or infringing upon her privacy was published in the news item. From the reply filed on behalf of the non-applicant no. 1-Investigating Agency, it is clear that the Investigating Agency itself is not sure about the offence alleged to have been committed by the applicant.

7. Be that as it may, we do not find anything in the news item published in "Lokmat Hello Amravati" on the basis of which the First Information Report could have been registered against the applicant and we deem it fit to exercise the power under Section 482 of the Code of Criminal Procedure and quash the First Information Report.

8. Hence, the following order:-

First Information Report No. 3003/2015 registered against the applicant with the non-applicant no. 1-Police Station is quashed.

Rule is made absolute accordingly.

CRIMINAL APPLICATION (APPP) NO 1225 OF 2019

In view of the disposal of Criminal Application (APL) No. 25/2015, this Criminal

Application praying for vacation of stay granted by this Court on 29.04.2015 does not survive. It is disposed accordingly.