

MHRG010020982022



Spl. (POCSO) Case No.33/2022

The State of Maharashtra

Vs.

Kadambari Vijay Chaulkar & Ors.

ORDER BELOW EXH.22

This is an application under Sec.169 of Cr.P.C. by Investigating Officer contending that during investigation of the crime there was no sufficient evidence found to justify the forwarding of the accused to the Court for trial and accordingly this report under Sec.169 of Cr.P.C. was filed.

2. Considering the nature of the crime by order dtd-18/12/2022 say of the victim was called. Meanwhile charge-sheet came to be filed and on 03/01/2023 the Court passed order calling say of A.P.P. The Ld. A.P.P. filed say at Exh.29 and supported the report given under Sec.169 of Cr.P.C. by Investigating Officer. However, the say is not filed by the victim and no say order came to be passed on 15/03/2023.

3. I may note that, meanwhile accused No.1 Kadambari moved an application for bail Exh.30, say of the victim was called and the victim filed her affidavit on 11/07/2023 at Exh.32 through the Ld. Public Prosecutor and said bail application was decided by this Court. Though, the victim was present and filed her submissions by way of affidavit of the bail application of accused No.1, surprisingly no say was filed by

victim on the present application and therefore Court is constrained to decided the application/report in absence of the say of the victim.

4. Advocate Smt.Munnaja Hazate for the accused Atish Arun Palwankar present. Ld. Public Prosecutor is absent when called repeatedly. However, as already stated above by the say given at Exh.29, the Ld. Public Prosecutor has supported the report given by police under Sec.169 of Cr.PC. I have gone through the report as well as say given by public prosecutor and it is clear from it that so far as the presence of the Atish Palwankar at the spot i.e. in hotel, on verifying the CCTV Footage it was noticed by the Investigating Officer that he never visited that hotel. So also the call records of the Atish had shown that at given time he was in Alibag. The Ld. Public Prosecutor also submitted in the say that the victim had changed her version one after another and withdrawn the allegations against Atish and even in her statement recorded under Sec.164 of Cr.PC. before Ld. J.M.F.C., she did not make any allegations against Atish. Under these circumstances since there is no evidence was found by the police showing involvement of the accused Atish Palwankar in the crime to justify the forwarding of him to the Court, I find it proper to accept the report filed by the police and hence following order.

ORDER

1. The report filed by police in C.R.No.198/2022 registered by Revdanda Police Station for the offence punishable

under Sec.363, 376, 376(d), 377 r/w.34 and Sec.4 of The Protection of Children From Sexual Offences Act, 2012 under Sec.169 of Cr.P.C. in respect of Atish Arun Palwankar is accepted. Accordingly he is released forthwith in present crime.

Alibag.
Dt.: 28/07/2023

(A. Y. Thatte)
Special Judge and Additional
Sessions Judge, Raigad-Alibag