

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 1525 OF 2015

1. Saraswati w/o Rambhau Jadhav,
Age : 37 years, Occu. Govt. Servant,
R/o. Belegaon Phata, Behind Hotel Chaitanya,
In front of Kakasaheb Mhaske College,
Ahmednagar.
2. Pallavi W/o. Anil Gaikwad,
Age : 23 years, Occu. Nil,
R/o. Talkhed, Tq. Majalgaon,
Dist. Beed. .. Petitioners

Vs.

1. The State of Maharashtra,
Through its Secretary,
Ministry of Home, Mantralaya,
Mumbai.
2. The Commissioner of Police,
District Beed.
3. The Majalgaon Police Station,
Through its P.I. .. Respondents

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 Mr S. R. Pande, Advocate for the petitioners
 Mr R. B. Bagul, APP for respondent/State

WITH

CRIMINAL WRIT PETITION NO. 1526 OF 2015

1. Sonaji S/o Haribhau Gaikwad,
Age : 35 years, Occu. Agri.,
R/o. Talkhed, Tq. Majalgaon,
Dist. Beed.

2. Anil S/o. Ramkisan Gaikwad,
Age : 30 years, Occu. Agri.,
R/o. Talkhed, Tq. Majalgaon,
Dist. Beed.
3. Kishor S/o. Vasant Raut,
Age : 30 years, Occu. Driver,
R/o. Jai Bhavani Chowk, Bolegaon Phata,
Ahmednagar. .. Petitioners

Vs.

1. The State of Maharashtra,
Through its Secretary,
Ministry of Home, Mantralaya,
Mumbai.
2. The Commissioner of Police,
District Beed.
3. The Majalgaon Police Station,
Through its P.I. .. Respondents

.....
Mr S. R. Pande, Advocate for the petitioners
Mr R. B. Bagul, APP for respondent/State
.....

WITH

CRIMINAL WRIT PETITION NO. 1527 OF 2015

1. Soni W/o. Manoj Gulaskar,
Age : 37 years, Occu. Housewife,
R/o. Jai Bhavani Chowk, Bolegaon,
Tq. & Dist. Ahmednagar.
2. Manoj S/o. Appa Gaulaskar,
Age : 42 years, Occu. Service,
R/o. Jai Bhavani Chowk, Bolegaon,
Tq. & Dist. Ahmednagar. .. Applicants

Vs.

1. The State of Maharashtra,
Through its Secretary,
Ministry of Home, Mantralaya,
Mumbai.

2. The Commissioner of Police,
District Beed.

3. The Majalgaon Police Station,
Through its P.I.

.. Respondents

.....
Mr S. R. Pande, Advocate for the petitioners
Mr R. B. Bagul, APP for respondent/State
.....

CORAM : M.T. JOSHI, J.

DATE : 29/02/2016

ORAL JUDGMENT:

. Rule. Rule made returnable forthwith. Heard finally with the consent of the parties.

2. Being aggrieved by the rejection of the application filed by the present petitioners seeking discharge from the Sessions Case No. 2/2014, by the learned Additional Sessions Judge, Majalgaon, Dist. Beed, the petitioners have filed the present writ petitions.

3. The prosecution case in nutshell would show that, a 16 year old victim was raped and Crime No. 139 of 2013 came to be registered at Majalgaon Police Station, Dist. Beed, against three accused including the present petitioners for the offences punishable under

Sections 376(1), 363, 366(A), read with Section 34 of the Indian Penal Code and Section 3(A)/4 of the Protection of Children from Sexual Offences Act, 2012.

4. Hearing from both the sides as well as case papers would show that, a 16 year old victim was enticed by the child in conflict with the law - Shubham. He thereafter took her to various places and raped her. Thereafter, initially on the basis of F.I.R. filed by the complainant/father, the offence came to be registered against Shubham. After recovery of the victim i.e. daughter, the present petitioners as well as the other accused are arrayed.

5. The material statements are of the complainant/father and his alleged 16 year old daughter/victim. If both the statements as well as the supplementary statements of the witnesses are appreciated, it would go to show that petitioner No. 2 - Pallavi in Criminal Writ Petition No. 1525 of 2015 was allegedly conduit between the victim and said Shubham. She had brought a chit from Shubham to the victim, which was read and torn by the victim. As regards petitioner No. 1 - Saraswati, the mother of Shubham in Criminal

Writ Petition No. 1525 of 2015, the statement of the victim would show that the mother of Shubham used to threaten her. Similar is the case regarding petitioner No. 1 – Sonaji and petitioner No. 2 – Anil in Criminal Writ petition No. 1526 of 2015. In the circumstances, since there being material against them, at this stage they cannot be discharged from the said case.

6. So far as petitioner No. 3 – Kishor in Criminal Writ Petition No. 1526 of 2015 and the petitioners in Criminal Writ Petition No. 1527 of 2015 namely; Soni and Manoj are concerned, there is no material to show any admissible evidence against them. In that view of the matter, the following order.

ORDER

(1) The present writ petitions as regards petitioners namely; Saraswati and Pallavi in Criminal Writ Petition No. 1525 of 2015 and Petitioners No. 1 and 2 namely; Sonaji and Anil in Criminal Writ Petition No. 1526 of 2015 are hereby dismissed.

(2) Petitioner No. 3 — Kishor in Criminal Writ
Petition No. 1526 of 2015 and petitioners
namely; Soni and Manoj in Criminal Writ
petition No. 1527 of 2015 are discharged from
the trial.

7. Rule is made absolute in above terms.

[M.T. JOSHI]
JUDGE

sgp