

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 219 OF 2016

Ashfaq Juman Shaikh.

..Petitioner.

Versus

State of Maharashtra & Another.

..Respondents.

Mr. Balasaheb R. Deshmukh for the Petitioner.

Mr. F. R. Shaikh, learned APP for the State.

Coram : RANJIT MORE &
V. L. ACHLIYA, JJ.

Date : **March 4, 2016.**

P. C. :

1. Heard Mr. Deshmukh, learned Counsel appearing for the Petitioner and Mr. Shaikh, learned APP for the State.

2. By this petition the Petitioner is seeking transfer of investigation of a crime registered with Powai Police Station being CR No.438 of 2015. The said FIR is registered at the instance of the Petitioner. The allegations are with regard to the commission of the offence punishable under sections 342, 344, 376, 376(2), 354(a) of the Indian Penal Code, 1860 and sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2013.

3. The transfer of investigation is sought mainly on the ground that one Geeta Tambe in whose room, the accused – Jitendra Ram Sing and victim girl were found, has not been made an accused. Learned Counsel appearing for the Petitioner contended that the room in which accused and victim were found was closed from the outside and therefore said Geeta has abetted the commission of offence.

4. We have gone through the statement of the Petitioner on the basis of which the FIR was registered. This statement reveals that his daughter, i.e., the victim girl and accused – Jitendra were in relationship since prior to the date of incident. This statement of the Petitioner does not show that the said room was locked from the outside. On the contrary, the statement reveals that maid-servant of said Geeta Tambe knocked the door and thereafter the said door was opened by Jitendra from inside. The victim was found with Jitendra and after some time thereafter Geeta came at the scene, she slapped the victim girl. In the backdrop of this statement of the Petitioner himself, we do not find any substance in the contention of the

Petitioner that Geeta has aided or abetted the commission of offence and therefore she ought to have been made accused.

5. One more contention of learned Counsel appearing for the Petitioner is that there is discrepancy in the medical certificates given by Rajwadi hospital and KEM hospital. We have perused the said certificates. In our view, there is absolutely no discrepancy exist in the said certificates and therefore that cannot be a ground to accede to request for transfer of investigation.

6. Admittedly, after completion of investigation in the aforesaid FIR, the police have already filed charge-sheet before the appropriate Court. In this scenario, there is nothing to order transfer the investigation. The petition is without any merit and the same is therefore dismissed.

[V. L. ACHLIYA, J.]

[RANJIT MORE, J.]