

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 1712 OF 2019**

Nityanand D. Patil ... Appellant
V/s.
The State of Maharashtra and anr. ... Respondents

Mr. P.M. Patil a/w. Mrs. Revati A. Tatkare, Mr. P.B. Gole a/w. Mr. R.N. Deshmukh for the Appellant.
Mr. K.V. Saste, APP for the Respondent – State.

**CORAM : B.P. DHARMADHIKARI &
N.R. BORKAR, JJ.
DATE : JANUARY 21, 2020.**

P.C.

1] Heard Shri. Patil, learned counsel for the appellant and learned APP. Perused the impugned order. We have also perused the judgment delivered by learned Single Judge of Gujarat High Court reported at **2018 SCC OnLine Guj 2153 - Sunilkumar V. Damor vs. State of Gujarat.**

2] Order impugned is dated 20th November 2019 by which Additional Sessions Judge has rejected the second bail application of the appellant.

3] Learned counsel for the appellant states that the appellant has put in about 31 years of service and he is a Teacher respected in the society. He has declined to issue school leaving certificates to two students since strength of students was going down to 6 from 8 and would have resulted in cancellation of recognition of school.

4] This decision taken in the interest of other students and school management by the appellant as In-charge Headmaster has provoked the parents to fabricate false story. They arranged for a meeting in the village, hired services of a retired Police Officer and with his assistance, a false case has been registered.

5] Our attention is also invited to statements recorded to urge that those statements *prima facie* do not make out any case.

6] Learned APP submits that the statements of victims under section 164 of Cr.P.C. support the prosecution. The recording of evidence will shortly begin before the Trial Court

and this Court, therefore should not intervene.

7] Perusal of judgment delivered by learned Single Judge of Gujrat High Court in *Sunilkumar Damor (supra)* reveals that there the High Court was satisfied that the statements recorded did not support the case of prosecution. Here we have perused the statements of both victims recorded under section 164 of Cr.P.C. and we cannot, at this stage, say that the facts disclosed by both the victims do not support the case of the prosecution.

8] In this situation and in the light of arguments advanced, we find no jurisdictional error of perversity in the approach of Trial Court. Hence, Appeal is rejected.

(N.R. BORKAR, J.)

(B.P. DHARMADHIKARI, J.)