

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO. 556 OF 2021

Sheela W/o Baban Gadekar

... Petitioner

Versus

The State of Maharashtra
and others

... Respondents

Ms. Sapana S. Jadhav, Advocate for the Petitioner
Mr. M.M. Nerlikar, A.P.P. for State

**CORAM : V. K. JADHAV AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 2nd August 2021

PER COURT :

1. With the consent of learned Counsel for the parties, heard finally at admission stage.

2. This Writ Petition is filed with the following prayers :

(B) By issuing appropriate writ, order or direction to the respondent No.2 and 3, the investigation of offence bearing C.R. No.60/2021, registered with Shirdi Police Station, Taluka Rahata, District Ahmednagar be handed over to a senior lady police officer.

(C) By issuing appropriate writ, order or direction to the respondent No.2 and 3, the respondent No.2 and 3 be directed to add Section 376 (2) (b) of the Indian Penal Code in F.I.R. No. 60/2021 lodged by the petitioner and record the complaint as per the version of the petitioner.

(D) By issuing appropriate directions, the respondent No.2 and 3 be directed to take action on the applications/representations submitted by the petitioner on dated 15/2/2021, 25/3/2021 and 8/4/2021.

3. The learned A.P.P., on instructions in writing from the Investigating Officer submits that the investigation is now handed over to the lady Police Officer i.e. P.S.I. Surekha Deore. The learned A.P.P. submits that initially, the crime was registered under Section 354-A and 354-D of the Indian Penal Code. However, now Section 354 of the Indian Penal Code is also added.

4. The learned Counsel for the petitioner submits that in terms of the representations dated 15/2/2021, 25/3/2021 and 8/4/2021, the petitioner has alleged that the accused has not only outraged her modesty but the accused has lifted her saree and touched her vagina.

5. The learned Counsel for the petitioner submits that, in terms of the provisions of Section 375 (b) of the Indian Penal Code read with explanation 1, it constitute rape and consequently, Section 376 (2) (b) and (k) of the Indian Penal Code stands attracted. The said Crime No.60/2021 is still under the investigation and it is open for the Investigating Officer to submit the charge-sheet under Section 376 (2) (b) (k) of the Indian Penal Code, if the same has been revealed during investigation. Even, the petitioner/original complainant can also agitate this issue, in case if the charge-sheet is not filed under Section 376 (2) (b) and (k) of the Indian Penal Code, before the Sessions Court at the time of framing of the charge.

6. In view of the above, the purpose of filing of this Writ Petition is served.

7. Writ Petition is accordingly disposed of.

(SHRIKANT D. KULKARNI, J.)

(V. K. JADHAV , J.)