

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION (APL) NO. 69 OF 2021

Jagdish Shankar Wankhade

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr.Rahul Arote for Applicant.

Mrs.Rutuja Ambekar, A.P.P. for Respondent-State.

CORAM : A.S. GADKARI, J.

DATE : 3rd March 2021.

PC. :

In pursuance of Order dated 28th January 2021, the learned A.P.P today has tendered across the bar a report dated 25th February 2021 signed by Special Inspector General of Police (L.& O.) for Director General of Police, Maharashtra State, Mumbai. To the said report an inquiry report dated 18th February 2021 duly signed by Deputy Commissioner of Police (Zone-7), Mulund, Mumbai, is also annexed. The Special Inspector General of Police in his report has stated that, the prosecutrix and her mother (complainant) have been traced out by the Investigating Officer and will be produced before the Trial Court on any date fixed in that behalf. The said report is taken on record and is accepted as compliance with the directions issued by Order dated 28th January 2021.

2. Learned A.P.P has also produced on record a compliance report dated 10th February 2021 duly signed by the Principal Secretary and RLA, Law

and Judiciary Department, Government of Maharashtra, Mumbai. It is stated in the said report that, necessary guidelines have been issued by the Law and Judiciary Department by its Circular dated 10th February 2021 and all the concerned Public Prosecutors/Additional Public Prosecutors have been directed to follow the procedure envisaged in Code of Criminal Procedure, 1973 and Criminal Manual scrupulously, whenever hearing of a case is pre-poned. The Circular dated 10th February 2021 is also annexed along with the said report. The said report is taken on record and is accepted as compliance with the directions issued by Order dated 28th January 2021.

3. It is noticed that, by an letter dated 8th February 2021, the Desk Officer, Government of Maharashtra attached to Law and Judiciary Department has intimated the Incharge Public Prosecutor, Sessions Court, Mumbai, to withdraw work from Ms.Vina Shelar appearing in the present case before the Trial Court with immediate effect and to handover all her work to other Additional Public Prosecutor. It is to be noted here that, this Court in its Order dated 28th January 2021 has nowhere directed to withdraw work from the concerned Additional Public Prosecutor, namely, Ms.Vina Shelar. It was only brought to the notice of the Law and Judiciary Department by Order dated 28th January 2021 that, incorrect procedure was adopted by the concerned. In view thereof, the said communication dated 8th February 2021 is unwarranted.

4. Learned A.P.P, on instructions from the Investigating Officer who is personally present in the Court, submitted that, after tracing out the prosecutrix, she has now been kept at Children Protection Home at Mankhurd, Mumbai and will be produced before the Trial Court for her cross-examination on any date, as may be directed by this Court.

5. In view thereof, the Investigating Officer is directed to produce the prosecutrix in the present crime i.e. POCSO Special Case No.414 of 2017 before the Trial Court on 6th March 2021 at 11.00 am. The applicant-accused is permitted to further cross-examine the prosecutrix. It is made clear that, the questions which have already been put by the applicant and answered by the prosecutrix on 22nd December 2020 shall remain on record. The applicant is permitted to further cross-examine the prosecutrix and is directed to complete her cross-examination preferably on the same day.

It is further made clear that, the learned Advocate for the applicant-accused shall not seek adjournment on any ground of whatsoever nature and will proceed with the cross-examination of the prosecutrix on that day itself.

6. In view of the aforesaid directions, impugned Order dated 24th December 2020 is set-aside.

7. Application is allowed in the aforesaid terms.