

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

CRIMINAL WRIT PETITION NO.391 OF 2020

Komal w/o. Raju Bharti .. Petitioner
V/s.
The State of Maharashtra
and others. .. Respondents.

...

Mr.Amol R. Gaikwad, Advocate for the petitioner.
Mr.A.V.Deshmukh, APP for the respondent-State.
Mr.Abhishek Kulkarni, Advocate for respondent no.4

...

**CORAM : C.V. BHADANG &
S.G.DIGE, JJ.**

DATE : 6 JUNE 2022

P.C. :

1. By this petition under Article 226 of the Constitution of India, the petitioner is seeking direction to the Investigating Officer for registration of an offence under Section 66 (A), 66 (E), 67 (A), 67 (C), 84 (B) and 84 (C) of the Information Technology Act 2000 and any other applicable provision against respondent nos. 4 and 5.

2. We have heard the learned counsel for the parties.

3. It is submitted by the learned counsel for the petitioner that the Investigating Officer has not invoked proper sections against the respondent nos. 4 and 5 while registration of the offence and at the time of filing of the charge sheet. It is pointed out that the specific allegation was made about respondent no.5 having made a video of the incident of sexual abuse of the petitioner, which was posted on the social media. In the submission of the learned counsel, the Investigating Officer has not properly taken into consideration these allegations and carried out the investigation in the matter. *Secondly*, it is submitted that respondent nos.4 and 5 have committed breach of the conditions of grant of bail. These are the grounds on the basis of which the petitioner is seeking direction for addition of the aforesaid sections against the respondent nos.4 and 5.

4. The learned APP points out that the investigation is completed and the charge sheet is already filed and therefore, it is for the trial Court to decide, on the basis of the material, as to which of the offences *prima facie* are made out against the respondents at the time of framing of charge.

5. The learned counsel for respondent no.4 points out that in so far as the allegations about breach of certain conditions of grant of bail are concerned, the petitioner has already moved an application for cancellation of bail, which is pending before this Court.

6. We have considered the rival circumstances and the submissions made and we do not find that the petition can be entertained. It is necessary to note that the Investigating Officer, after carrying out investigation, has filed charge sheet and as pointed out by the learned APP, it is for the trial court to examine the material so collected, in order to decide, under which section the charge can be framed. It is necessary to note that in a given case, the trial Court has power to direct further investigation, if necessary. In so far as the allegations about breach of conditions at the time of grant of bail are concerned, already application for cancellation is said to be filed, which is pending before this Court. Thus, no case for grant of indulgence is made out. Accordingly, the Writ Petition is dismissed.

S.G.DIGE, J.

C.V. BHADANG, J.