

Dusane

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

PUBLIC INTEREST LITIGATION NO. 14 OF 2022

BHALCHANDRA
GOPAL
DUSANE

Rashmi Taylor

...Petitioner

V/s.

The State of Maharashtra & Ors.

...Respondents

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BHALCHANDRA
GOPAL DUSANE
Date: 2022.09.28
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Mr. Mihir Desai a/w Saziya Mukadam, Amla
Shejwadkar for Petitioner.

Mr. A.R. Patil, APP for Respondent No. 1 - State.

**CORAM: DIPANKAR DATTA, CJ. &
MADHAV J. JAMDAR, J.**

DATE: SEPTEMBER 26, 2022

P.C.:

1. This petition, instituted in public interest, is at the instance of a social activist. It is averred that the petitioner is working with minor victims of sexual violence and their families, across Mumbai and adjoining districts. It is also averred that the petitioner is a support person in child sexual abuse cases as per the orders of the Child Welfare Committee.

2. The relief claimed in this petition is for (a) a direction to the Sessions Judge, 36th Court at Mumbai to record the evidence of the victim and witnesses in Special POCSO Case No. 609/ 2018 within a period of two months; (b) a direction to the Sessions Judge at Thane to record the evidence of the

victim and witnesses in Special POCSO Case No. 120/2019 within a period of two months; and (c) a direction to all Special Courts concerned to endeavour to dispose of all POCSO cases (mentioned in the list, at Exhibit 'I') within a particular time frame; and (d) directions to all the Special Courts established under the POCSO Act to record evidence of all victims within 30 days of taking cognizance of the offence as far as possible and to further record reasons for adjournments sought either by the prosecution or by the defence. There are other prayers [nos. (f) to (k)] too in the petition which, inter alia, includes a prayer to issue directions to all Special Courts to strictly adhere to the guidelines laid down by the Supreme Court in its decision in **Alakh Alok Srivastava Vs. Union of India**, (2018) 17 SCC 299.

3. This petition has been instituted under Article 226 of the Constitution of India. In our view, having regard to the decision of the Constitution Bench of the Supreme Court in **Naresh Shridhar Mirajkar & Ors. vs. State of Maharashtra**, AIR 1967 SC 1, the writ jurisdiction under Article 226 of the Constitution cannot be invoked in respect of proceedings before a judicial forum. A petition under Article 227 of the Constitution would have been the proper course. Be that as it may, we are not inclined to consider prayers (a) to (e) on the judicial side at this stage.

4. However, interest of justice in our view would be better served if this petition is disposed of by granting liberty to the petitioner, who has been working with the victims of sexual violence as support person, to ventilate the concern/grievance expressed in this petition before the ad-hoc committee

comprising Justice Smt. Revati Mohite Dere, Justice Mr. A.S. Gadkari and Justice Smt. Bharati H. Dangre, constituted in terms of the administrative order of the Chief Justice dated 23rd June, 2022 to look into the matters arising out of the POCSO Act. If the petitioner approaches the ad-hoc committee with her suggestions to bring about improvements in the POCSO courts for ensuring delivery of quick, responsive and timely justice to the parties before it, we have no doubt in our mind that such committee shall proceed to make appropriate recommendations upon consideration of all relevant factors to address the concern/grievance laid before it, whereafter appropriate orders/directions may be obtained from the Chief Justice on the administrative side. Ordered accordingly.

5. On the aforesaid terms, the petition is disposed of.

6. No costs.

(MADHAV J. JAMDAR, J.)

(CHIEF JUSTICE)