

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

***CRIMINAL WRIT PETITION NO.2365 OF 2021***

Chetna Mangesh Ingale

...Petitioner

Versus

1. State of Maharashtra
2. Seema Vinayak Wankhede
3. Payal Wankhede

...Respondents

Ms. Dhanalakshmi Iyer, for the Petitioner.

Mr. J. P. Yagnik, A.P.P for the Respondent No.1– State.

Mr. Kiran P. Bhalerao, for the Respondent No.2.

***CORAM : REVATI MOHITE DERE &  
MADHAV J. JAMDAR, JJ.***

***DATE : 5<sup>th</sup> SEPTEMBER 2022***

**P.C. :**

1. Heard learned counsel for the parties.
2. By this petition, the petitioner seeks quashing and setting aside of the criminal proceedings i.e. FIR bearing C.R. No.331 of 2020 dated 13<sup>th</sup> August 2020, registered with the Mankhurd Police Station, Mumbai, for the alleged offences punishable under Sections

376(3), 366A, 370, 323, 34 of the Indian Penal Code and under Sections 6 and 17 of the Protection of Children from Sexual Offences Act.

3. Learned Counsel for the petitioner submits that the allegations as against the petitioner, a lady, are false and baseless. She submits that the complainant's statements, if perused, are contradictory with each other and as such the complainant cannot be relied upon. She submits that there is a delay of 11 days in registering the aforesaid FIR and that Section 34 of the Indian Penal Code has been malafidely invoked by the police. She further submits that the complainant has given her no objection to the quashing of the FIR vis-a-vis the petitioner.

4. Learned APP vehemently opposes the petition. He submits that the trial in the said case has commenced and that the matter is posted for recording the 313 statement of the accused. He submits that a perusal of the FIR as well as the charge-sheet would clearly

show the complicity of the petitioner, inasmuch as, the petitioner alongwith her husband – Mangesh Ingale had taken the complainant's minor daughter, aged 16 years, pursuant to which co-accused – Dilip Patel had forcible physical relations with her. He submits that having regard to the complicity of the petitioner in the aforesaid crime, the question of quashing the FIR/proceeding does not arise. He further submits that the police have recorded the statement of the complainant, in which the complainant has specifically stated that she had given her no objection, at the stage of bail and not for quashing of the FIR. Learned APP relied on the said statement of the complainant dated 22<sup>nd</sup> April 2022, evidencing the same.

5. Perused the papers, in particular the statement of the complainant. A perusal of the complaint/FIR, *prima facie* shows the complicity of the petitioner in the said crime. The complainant i.e. the respondent No.2 had lodged a complaint which was registered as C.R. No.331 of 2020 with the Mankhurd Police Station, Mumbai, for the alleged offences punishable under Sections 376(3), 366A, 370,

323, 34 of the Indian Penal Code and under Sections 6 and 17 of the Protection of Children from Sexual Offences Act. Whether or not, the statements of the complainant are contrary or not, is a matter of trial and the same will be considered by the trial Court after evidence is led and the same cannot be gone into, in writ jurisdiction. Similarly, delay of 11 days, cannot be a ground for quashing the FIR, having regard to the manner in which the incident had taken place. Even otherwise, we are not inclined to quash the proceeding, having regard to the fact, that the trial has almost come to a fag end, inasmuch as, the matter is pending for recording the 313 statement of the accused.

6. As far as no objection of the respondent No.2 – original complainant is concerned, we have perused the statement recorded by the police dated 22<sup>nd</sup> April 2022, wherein she has categorically stated that the no objection was given at the stage of bail and not for quashing of the FIR. Even otherwise, the Judgment of the Apex Court in the case of *Narinder Singh and Others vs. State of Punjab*

*and Another*<sup>1</sup>, clearly states that inherent powers for quashing a complaint/FIR, should be exercised in rare cases. The present case involves a heinous and serious offence involving mental depravity, and has a serious impact on the society.

7. Considering the aforesaid, no ground is made out for quashing of the criminal proceedings i.e. FIR bearing C.R. No.331 of 2020 dated 13<sup>th</sup> August 2020, registered with the Mankhurd Police Station, Mumbai, for the alleged offences punishable under Sections 376(3), 366A, 370, 323, 34 of the Indian Penal Code and under Sections 6 and 17 of the Protection of Children from Sexual Offences Act.

8. Petition is accordingly dismissed and disposed of as such.

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1 2014 AIR SCW 2065

9. Needless to state, that the observations made herein are *prima facie*, for the purpose of deciding this petition and the trial Court shall decide the proceeding/case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

***MADHAV J. JAMDAR, J.***

***REVATI MOHITE DERE, J.***