

S.S.Kilaje

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

CRIMINAL WRIT PETITION NO. 1886 OF 2022

Prabhakar Ramchandra Hirave

.. Petitioner

Versus

State of Maharashtra and Anr.

.. Respondents

-
- Mr. Saiprasad Hole for the Petitioner
 - Mr. K.V.Saste, APP for the State - Respondent
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**CORAM : S.S.SHINDE &
MILIND N. JADHAV, JJ.**

DATE : JUNE 09, 2022.

P.C.:

1. By the present Petition, the Petitioner has sought to quash the proceedings being POCSO Special Case No. 194 of 2022 arising out of Chargesheet No. 20 of 2021 filed in C.R. No. 87 of 2021 registered with the Mahabaleshwar Police Station, District Satara. The Petitioner is Accused No. 13 in the said offence. The Petitioner is also an Advocate by profession.

2. The case of the Prosecution is that Respondent No. 2, the original complainant, is the mother of the victim. Respondent No. 2 has been staying separately from her husband at Mahabaleshwar with her mother, three sons and two daughters for the past one and a half years before the date of the incident.

3. The date of birth of the victim is 03.08.2005. In April, 2021, the victim skipped her periods and hence her mother, the complainant, took her for a consultation to Dr. Mankar's Hospital; various tests were conducted and it was confirmed that the victim was four months pregnant. On inquirng with the victim, she replied that she was in a relationship with Ashutosh Biramane and Sagar alias Aba Gaikwad. Being worried, the Complainant took the victim to a hospital for an abortion, but was informed that it was not possible, hence, she informed Sunny Bawalekar, son of the employer where the Complainant was working, to help her; Sunny told her that he will try and accommodate the victim in some Aashram; on 13.09.2021, the inevitable happened, and the victim being in severe pain delivered a child before she could be taken to the hospital. The Complainant informed Sunny Bawalekar, and in turn, he volunteered to help the Complainant by stating that one of his friends, Anand Chourasiya, did not have a child and if the Complainant was willing to give the said child to him; however nothing transpired, but on 19.09. 2021, one Chanda, the maid of Sunny Bawalekar, visited the Complainant alongwith her sister who did not have a child and took the new born for a check-up to one Dr. Jamgam. Thereafter on 19.09.2021, the Complainant alongwith the victim and her son, Pranav, took the new born to Hotel Sunny International, where Anand Chourasiya, alongwith his brother, sister-in-law, one priest, and the present

Petitioner, Advocate Hirave, were present.

4. At this incident spot, the present Petitioner, Advocate Hirave, notarized the adoption deed in respect of the new born. The Complainant has also recorded a supplementary statement on 23.09.2021, it is also alleged that the Complainant a further supplementary statement on 24.09.2021, stating that the notarization was done by one Advocate Farande.

5. The investigation has been completed and chargesheet bearing No. 20 of 2021 has been filed against the Petitioner and 13 other accused.

6. Learned counsel for the Petitioner submits that the Petitioner is innocent and that there is no allegation with respect to the Petitioner having any relation with the victim; that all charges under the IPC, POCSO, and Juvenile Justice Act are against the other Accused, save and except, one charge under Section 12 of the Notary Act, which is against the Petitioner; it is vehemently pleaded that the Petitioner is not involved in the preparation of the Adoption Deed, nor was he present during the adoption ceremony, nor involved in the incident; that the Petitioner is not involved in drafting of the Adoption Deed; that the entire adoption process took place between the persons

who adopted the new born, who belong to a rich family, whereas, the victim belongs to a poor family; that the adopting family were residents of Mumbai and despite trying have been unable to have a child for the past 15 years of their marriage and were known to Sunny Bawalekar, the employer of the Complainant; that the Adoption Deed speaks for itself by giving and disclosing all the true facts; that the Petitioner is a responsible advocate and the Adoption Deed is a valid and executable document in the eyes of the law; that the Petitioner was known to Sunny Bawalekar and Yogesh Bawalekar, whom he represented in various litigations before several courts and therefore, there is a conspiracy to frame and trap the Petitioner.

7. *PER CONTRA*, learned APP, Mr. K V Saste, has drawn our attention to the Chargesheet filed and contended that the Petitioner being an Advocate, ought to have realised that the victim was merely 16 years and 1 month old, despite which he attended the adoption ceremony, and notarized the Adoption Deed, and the FIR clearly depicts the manner and stages in which the entire conspiracy and collusion took place for securing the illegal adoption of the child of the minor victim, wherein, the Petitioner was also involved.

8. We have perused the chargesheet and carefully seen the entire material placed on record, the Petitioner is Accused No. 13,

upon investigation, the Investigation Officer has also seized the computer and the printer used by the Petitioner for preparing and printing the Adoption Deed and all such other papers connected thereto. It is stated that the Petitioner, that is Accused No. 13, had complete knowledge of the facts and circumstances of the present case. We have perused the statements recorded by the Investigating Officer, which are appended to the Petition. In all statements, the witnesses have stated that the Appellant, i.e., Hirave Vakil, was present to do the notarization of the Adoption Deed in Hotel Sunny International at the time of the adoption ceremony. However our observations are *prima facie* in nature.

9. In view of the above, we do not find this a fit case for grant of relief prayed for by the Petitioner.

10. Hence the Writ Petition stands dismissed.

11. Writ Petition is disposed of in the above terms.

[MILIND N. JADHAV, J.]

[S.S.SHINDE, J.]

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