

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

932 CRIMINAL PUBLIC INTEREST LITIGATION NO.5 OF 2018

**RAMESH HARISHCHANDRA DANE AND ANR.
VERSUS
THE STATE OF MAHARASHTRA AND ANR.**

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**Advocate for Petitioners : Mr. Paranjape Prakash S & Menezes Joslyn A
APP for Respondents/State: Mr. S. B. Yawalkar**

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**CORAM : NITIN W. SAMBRE &
S. G. CHAPALGAONKAR, JJ.**

DATE : 18.04.2023

PER COURT :

1. We have heard Mr. Paranjape learned counsel appearing for the petitioner who has apprised us about the issue involved in the present PIL. According to him, the PIL to a larger stage has served its purpose as already the accused persons were traced pursuant to the complaint of victim and were prosecuted under the provisions of POCSO Act.

2. According to him, in spite of there being the statement of the victim recorded under Section 164 of Cr.PC., the fact remains that the judicial authority who has recorded such statement was not examined which has resulted into the recording of acquittal of the accused persons.

As such, he would urge that the general direction needs to be issued to the Special Courts taking up POCSO matters, so also the Special Public Prosecutors who are conducting POCSO trials to be sensitive in the matter of examining witnesses particularly in case of availability of the statement of victim under Section 164 of Cr.PC.

3. The Additional Public Prosecutor Mr. Yawalkar submits that even if there is an acquittal, the PIL has sensitized the administration resulting into filing of an appeal and the appeal against the acquittal is being persuaded by the State seriously.

4. Having regard to the aforesaid submissions and having satisfied that the present PIL has served its purpose, we deem it appropriate to dispose of the same.

5. However, considering the submissions made by Mr. Paranjape in the matter, we feel it appropriate to bring the copy of the order passed in the present PIL to the notice of the Principal Secretary, Law and Judiciary, so as to facilitate him to issue appropriate instructions to the Special Public Prosecutor in the matter of conducting the trials under the provisions of POCSO Act, particularly having regard to the procedure to be adopted while recording the evidence in case of availability of statement of the victim under Section 164 of Cr. P.C. We deem it appropriate to direct the Principal Secretary, Law and Judiciary to issue appropriate instructions in the matter, if no such instructions are already governing the issue.

6. The PIL accordingly stands disposed of.

(S. G. CHAPALGAONKAR, J.)

(NITIN W. SAMBRE, J.)