

Maria S.

**IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL WRIT PETITION NO.24 OF 2022**

State of Goa, thr. Addl. Public
Prosecutor.

... Petitioner

Versus

Ravi Ree And 2 Ors.

...Respondents

**Mr Pravin N. Faldessai, Additional Public
Prosecutor for the Petitioner.**

Mr Rohan Desai, Advocate for the Respondents.

**CORAM:
DATED :**

**PRAKASH D. NAIK, J
7th AUGUST 2023**

ORAL ORDER:

1. This petition is preferred by the State under Section 482 of the Code of Criminal Procedure challenging the order dated 26.07.2019 passed by the Children's Court for the State of Goa, Panaji.
2. The respondent accused were tried for the offences punishable under Section 365, 375, 376(2)(i) and (n) of IPC, under Section 2(y)(i), 82(2) of the Goa Children's Act and under Section 5 and 6 of POCSO Section (2) of Goa Children's Act and Section (4) of POCSO Act.
3. The prosecution preferred an application on 25.06.2019 before the trial Court contending that the victim and her father

were examined before the Court and from the deposition of the victim it is seen that the accused had committed the offences individually on different dates, place and time and none of the accused were present together at the time of committing the offence against the victim. In view of the evidence of the victim, the prosecution may be granted permission to prefer and file separate chargesheets against the accused no.2 and 3.

4. Learned Children's Court of the State of Goa rejected the aforesaid application vide order dated 26.07.2019.

5. Learned Additional Public Prosecutor, Mr Faldessai, submitted that the subject application was preferred before the trial Court in view of the deposition of the victim. The evidence of the victim discloses that the accused had committed the offences individually on different dates, time and place. It is only on account of the evidence of the victim the State was constrained to prefer such application.

6. Learned advocate, Mr Rohan Desai, appearing for the respondent submitted that the learned Children's Court has passed a reasoned order which does not call for any interference. The application preferred by the State was not tenable in law. After recording the evidence of the witnesses, the question of filing separate chargesheet did not arise. He further submitted that the accused are in custody from 28.04.2018 and on account of pendency of this application, the trial did not proceed. Hence, trial may be expedited.

7. Learned Additional Public Prosecutor countered the last submission by submitting that the prosecution has not delayed the trial in any manner.

8. On perusal of the impugned order dated 26.07.2019, it can be seen that the learned Children's Court has passed a reasoned order by assigning cogent reasons. The order does not warrant any interference from this Court. The learned Judge has rightly observed that the statement of PW1 as well as the complaint of PW2 form a part of the chargesheet presented in the matter by the prosecution. After hearing both the parties before proceeding with the charge, order was passed on 27.07.2018 determining the charge to be framed against accused no.1, 2, and 3 on the basis of material placed before the Court by the prosecution by means of the charge sheet. The order further indicated that charge was framed on 27.07.2018 and it was explained to accused no.1, 2, and 3 who were in custody and soon thereafter, the trial had commenced whereby testimonies of PW1 and PW2 were recorded. It is pertinent to note that the testimony of these witnesses was based on the material forming part of the charge sheet in the form of their statements. There was no additional material relied on by the prosecution by way of a charge sheet. The deposition is thus based on the charge sheet.

9. The evidence of PW1 and PW2 was recorded in the light of the factual matrix indicated hereinabove. The question of granting the reliefs sought in the application preferred by the State does not arise. The learned Judge has passed well-

reasoned order and I find no reason to deviate from the view taken by the Court. The application preferred by the State at this stage was not maintainable. Hence, the following order:

ORDER

- 1) Criminal Writ Petition is dismissed.
- 2) Trial is expedited.
- 3) The trial Court is requested to conclude the trial within a period of 6 months from the date of receipt of this order.
- 4) This order may be communicated to the trial Court immediately.

(PRAKASH D. NAIK, J.)