

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

CR.WRIT PETITION NO.2594 OF 2019

Dilip Somnath Bamankar ... Petitioner
Versus
The State of Maharashtra & Ors. ... Respondents.

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Mr Rajaram V. Bansode, Advocate for the Petitioner.
Mr.A.R. Kapadnis, for the Respondent-State.

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**CORAM: NITIN W. SAMBRE AND
R. N. LADDHA, JJ.**

DATE : 2 FEBRUARY 2023

P.C. :-

. This petition is by the Accused seeking quashing of FIR, in Crime No.324 of 2018, punishable u/s 376(A,B), 506, 34 of the Indian Penal Code, Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012, and Section 146/196, 66(1)/192 of the Motor Vehicle Act.

2. Story of the prosecution is, services of the Petitioner/Accused were hired for the purpose of operating School Van wherein, the victim girl was commuting from her home to the School, and back.

3. On the day of incident, the Petitioner allegedly, after dropping all the students, took the victim girl at secluded place and committed sexual assault.

4. Contention of the learned Counsel for the Petitioner is, even if, what has been stated in the FIR and other documents, is taken to be correct at its face value, for the purpose of considering the case of the victim girl, still offence under Section 376(A B) of the Indian Penal Code, is not made out.

5. So as to substantiate aforesaid contention, learned Counsel for the Petitioner, has invited our attention, to the allegations in the FIR, medical report and the statement of the victim.

6. While opposing the prayer, the learned APP, would urge that there is enough evidence, on record, to infer *prima facie* involvement of the Applicant, in the offence in question.

7. Having appreciated the aforesaid submissions, this Court needs to be sensitive to the development in the trial viz. the charge against the Petitioner is already framed.

. It appears that the victim girl, initially, narrated about the alleged incident to her mother, and on the very same day, after

discussing with the teacher of the victim girl, complaint came to be lodged. The victim girl was subjected to medical examination and medical report appears to be substantiating the claim put forth in the FIR. Statement of the victim, is in tune with what has been alleged in the FIR and having regard to the availability of enough material, in the form of evidence, whereby claim in the FIR and the statement would be supported, we see no reason to cause interference, particularly, as regards quashing and setting aside the aforesaid FIR.

8. In view of the matter, there is no substance in the petition, hence, dismissed.

9. Needless, to clarify that the trial be decided independent of the findings recorded hereinabove.

[R. N. LADDHA, J.]

[NITIN W. SAMBRE, J.]