

rajshree

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.701 OF 2023

Maruti Shankar Zore	]	..	Petitioner
vs.			
State of Maharashtra	]	..	Respondent

Mr.Vikramsingh Parmar, for the Petitioner.

Ms.A.A. Takalkar, APP for the State.

CORAM : BHARATI DANGRE, J

DATE : 16th March, 2023

P.C.

1] Heard the learned counsel for the Appellant the the learned APP for the State.

2] The Petition is filed being aggrieved by rejection of an application filed by the Petitioner, an accused in Special POCSO Case No.261/2020 praying for recording of evidence in Special POCSO Case No.206/2020, prior to the cross-examination of Investigating Officer in the case, in which he is an accused.

Worth it to mention that in Special Case No.206/2020 one Satyajeet Shinde is being tried for charge under POCSO. Pertinent to note that in the FIR filed by the victim, she made allegations of sexual assault against Satyajeet Shinde and thereafter the Petitioner was implicated by her, alleging sexual abuse.

3] On perusal of the order dated 24.11.2020 passed by the Additional Sessions Judge, Sangli, it is apparent that the learned Judge clearly opined that two incidents mentioned by the victim in the FIR are totally distinct, as they have taken place on different dates and different places, with different persons. The learned Judge, therefore, opined that two separate charge-sheets ought to have been filed and even there cannot be common trial for both the accused, as the evidence against each of them is distinct. The learned Judge, therefore, gave choice to the Investigating Officer to decide as to against which of the accused, the trial is to be proceeded. The direction was given that the Investigating Officer shall file a separate charge-sheet against the other accused.

4] As a consequence of which, two charge sheets were filed and in two distinct POCSO cases the two accused are facing trial i.e. Satyajeet Shinde being tried in Special Case No.206/2020 and the present Petitioner being tried in and Special Case No.261/2020.

5] The case of the Petitioner is that the accused in Special Case No.206/2020 is on bail and in that case evidence of the mother of victim is recorded, but the victim's evidence is not yet recorded. As far as his case is concerned, it is at the stage of cross-examination of the Investigating Officer, which is sought to be deferred, till the victim is examined in Special Case No.206/2020.

It is this Application, which came to be rejected on 17.01.2023 and is impugned in the present Writ Petition.

6] Considering the fact that two cases are distinct and only

commonality may be that some witnesses like victim or her mother being common, learned Judge was perfectly justified in recording that, as far as Special Case No.261/2020 is concerned, the evidence is practically over and therefore there is no reason for postponement of the cross-examination of the, Investigating Officer, till the evidence of the victim girl is recorded in Special Case No.206/2020.

The reason for hurriedly concluding the trial of the petitioner is also clearly spell out in the order, by stating that he is in Jail and therefore trial has been expedited.

7] Since the trials are distinct and since it relate to two distinct instances, the victim being common, are being proceeded separately and therefore it is not necessary that the victim in the other case shall be examined before the case of the Petitioner is concluded.

Hence, I find no infirmity in the impugned order. Needless to state that in the case of the Petitioner i.e. Special Case No.261/2020, the learned Judge shall permit cross-examination of the Investigating Officer and conclude the trial expeditiously.

For the above, Writ Petition stands dismissed with no order as to costs.

[BHARATI DANGRE, J]