

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

WRIT PETITION NO.4510 OF 2022

Jijaba Narayan Jadhav ..Petitioner
VS.
The State of Maharashtra and others ..Respondents

Mr. Pankaj P. Deokar for the Petitioner.
Ms. Anamika Malhotra, APP for the State-Respondent No.1.
Mr. Yadav P. R. a/w Mr. Saumitra Salunke a/w Ms. Swapnali
Chavan for Respondent No.4.

CORAM : M. S. KARNIK, J.

DATE : AUGUST 1, 2023

P.C. :

1. Heard learned counsel for the Petitioner, learned APP for the State and learned counsel for Respondent No.4.

2. The order impugned is passed by the Juvenile Justice Board, Satara below Exhibit 33. By Exhibit 33 the Petitioner-original complainant contended that the proceedings before the Juvenile Justice Board should not proceed as the further investigation in terms of the order dated 19th October, 2016 has not been completed and no report has been filed by the Investigating Officer.

3. Learned APP for the State as well as learned counsel for Respondent No.4-accused contended that it is the Petitioner who is responsible for protracting the proceedings inasmuch as the affidavit filed on behalf of the State would indicate that the Petitioner has not co-operated with the investigation. It is urged that despite repeated requests made for recording the statement of the child-in-conflict with law, the Petitioner has not co-operated which resulted in delay in submission of the final report.

4. Learned APP submitted that if the child-in-conflict with law is produced, the statement of the child witness will be recorded. Learned APP urged that the Investigating Officer was always keen to record the statement but it is the Petitioner who has not co-operated.

5. My attention is invited to the affidavit and the factum of entries made in the station diaries. Learned counsel for the Petitioner submitted that he is willing to co-operate for the purpose of recording the statement by the Investigating Officer in terms of the order dated 19th October, 2016.

6. Learned counsel for the Respondent No.4 expressed an apprehension that at this stage after a delay of so many years, the statement so recorded may cause serious prejudice to the Respondent No.4 if the report adverse to the interest of the Respondent No.4 is submitted before the Juvenile Justice Board.

7. I find from the affidavit dated 9th March, 2023 filed by the Investigating Officer in paragraph 6, it has been categorically stated that the police is ready and willing to comply with the order passed by the Judicial Magistrate First Class, Dahiwadi. In this view of the matter, the statement be recorded on 21st August, 2023 and 22nd August, 2023. The Petitioner undertaken to keep the witness present before the Investigating Officer and co-operate in terms of the order dated 19th October, 2016 passed by the Judicial Magistrate First Class, Dahiwadi. The report shall be submitted by the Investigating Officer within a period of one week from 22nd August, 2023 to the Juvenile Justice Board. It is made clear that all objections of Respondent No.4 as regards the report and even on the

aspect of prejudice caused to Respondent No.4 in view of the delay in recording the statement of the witness is kept open to be raised before the Juvenile Justice Board, Satara. The objections to the report may be considered by the Juvenile Justice Board on its own merits and in accordance with law.

8. It is made clear that I have not expressed any opinion on the merits or otherwise of the report. In case the witness fails to remain present, no further indulgence be shown to the Petitioner and the Investigating Officer is free to submit appropriate report within a period of one week from 22nd August, 2023.

9. Subject to what is indicated hereinabove, I am not inclined to interfere with the impugned order. The Writ Petition stands disposed of.

(M. S. KARNIK, J.)