



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

61 CRIMINAL WRIT PETITION NO. 1412 OF 2024

XYZ

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Mr. A. A. Joshi, Advocate for the Petitioner

Mr. V. M. Jaware, APP for the Respondent – State

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CORAM : Y. G. KHOBRAGADE, J.

DATE : 18.11.2024

ORDER :-

1. Rule. Rule made returnable forthwith and heard finally by the consent of the parties.

2. By the present Petition under Article 226 and 227 of the Constitution of India read with Section 482 of the Code of Criminal Procedure, the Petitioner victim who has attained the age of majority prayed for quash and set aside the order dated 21.03.2024 passed below Exh.57 in Special Case No.01 of 2023 by the learned Additional Sessions Judge, Shrirampur, District Ahmednagar.

3. On perusal of the record it prima-facie appears that, the present Petitioner who was minor at the time of incident and her custody was taken by the Police Authority after conducting raid in brothel. Thereafter the Petitioner victim was sent to the Government Shelter Home at Mundhwa, Pune. Smt. Meena Babu Jadhav, being mother of the victim, had moved an application for custody of the victim. The Lady Superintendent of the Shelter Home also moved the applications Exh.51 and Exh.65 for grant of custody of the petitioner in favour of her mother, however, these applications are turned down by the learned Additional Sessions Judge, Shrirampur, on 21.03.2024, on ground that, the victim is in safe hands at Government State Home and if the custody of the victim is granted, there is every possibility that the victim may indulge into prostitution activities.

4. On face of record it appears that, on 03.09.2021, the Accused Suman Madhukar Pagare had took the victim at her place and she was insisted the victim to stay at her house for overnight but in said night, the Accused Imran Kureshi, Prashant Gore and Sachin Pagare committed rape on victim by assaulting and giving their life threat. Thereafter, the accused persons took the victim at village Rahuri in vehicle and sold to another Accused Babasaheb Chendwal,

who then committed rape on victim, so also, the victim was compelled to for physical intercourse with different persons. Then the victim was taken in one brothel at Shevgaon and sold her to the accused Meenabai Muswat, who compelled the victim for prostitution. All the accused gained money through it. On information, the police conducted raid at brothel of Accused Meenabai Muswat and took custody of the petitioner victim. The Police registered a Crime No. I-666 of 2022 against all six accused persons for the offences punishable u/s 366 (A), 368, 370(4) (7) (A) (1), 372, 373, 376(2)(n)(j), 376(d), 201 of the Indian Penal Code, Sec. 3,4,5(g) 6,17 of the POCSO Act, Sec. 4, 5, 6, 7 of Prevention of Immoral Traffic Act,(PITA), Sec. 3(1) (w)(i)(ii), 3(2)(v) and 3(2)(v-a) of the Atrocities Act and Sec. 3(1)(ii), 3(3) 3(4) of the MCOC Act.

5. Needless to say that, at the time of incident the petitioner/victim was minor but presently she attained the age of majority. After attaining the age of majority, the victim cannot be detained in the shelter home and her custody needs to be given to her parents including mother/father, if sought.

6. In the case in hand, the natural mother of the victim as well as the Lady Superintendent of the Government Shelter Home

also moved applications Exh.51 & Exh.65 and prayed for grant of custody of the petitioner in favour of her mother. Not only this but the petitioner also prayed for quash and set aside the order dated 21.03.2024 passed below Exh.57 in Special Case No.01 of 2023 by the learned Additional Sessions Judge, Shirampur, District Ahmednagar and grant of her custody to her mother. It is not in dispute that, the petitioner/victim has attained the age of majority and her mother prayed for custody of the victim. The victim is also wish to stay in the company of her mother. Therefore, considering the nature of offence and attaining the petitioner majority age, it would be just and property to direct the Superintendent of the Government State Home for Women, Mundhwa, Pune, to give the custody of the Petitioner victim in favour of Mrs. Meena Babu Jadhav, the mother of the Petitioner on furnishing undertaking that she (Victim) shall not indulge into prostitution activities in future.

7. In view of the above, Rule is made absolute in terms of prayer clause (B).

[Y. G. KHOBRAGADE, J.]