

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO. 588 OF 2024

Balkrishna Ranvijay Jaiswal ... Petitioner

Versus

The State of Maharashtra and another ... Respondents

.....

Mr. Harikrishna Mishra instructed by Mr. Mukesh Gupta for the Petitioner.

Ms. K.T. Hivarale, APP for the State.

Mr. Dhruv Gupta instructed by Ms. Anita Pandey for Respondent No.2.

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**CORAM : PRAKASH D. NAIK &
N.R. BORKAR, JJ.**

DATED : 22nd FEBRUARY 2024

P.C. :-

1. Not on board. Upon mentioning, taken on production board.
2. The papers are produced for seeking urgent interim relief.
3. The Petitioner is charge-sheeted for the offences under Sections 363, 366(A), 376 of Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).
4. It is submitted that the victim has no objection for quashing the proceedings. The victim was minor at the time of incident. However, today, she has attained majority. She has filed an application before the trial court stating that she does not want to proceed against the accused. It is submitted that the trial has proceeded and the case is at the stage of recording statement of accused under Section 313 of Cr.P.C. The application filed by the victim is taken on record by the trial court and

marked as 'X' (Exhibit 44). Trial Court has passed an order on the said application (Exhibit 44) observing that evidence of victim was recorded and proper remedy is available to the parties. It is submitted that proceedings can be quashed by this court. The trial court is not empowered to quash the proceedings, with the consent of the complainant. Reliance is placed on the decision of various High Courts.

5. The issue whether the proceedings can be quashed with the consent of the victim wherein the provisions of POCSO Act are invoked is pending before the Apex Court. Therefore, we keep this matter pending.

6. Stand over to 18th June 2024.

7. In the meantime, the trial court is requested to defer the proceedings beyond 18th June 2024.

(N.R. BORKAR, J.)

(PRAKASH D. NAIK, J.)