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55-WP-782-2025

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

55 CRIMINAL WRIT PETITION NO. 782 OF 2025

Sayyad Arbaz Gaus

VERSUS

The State Of Maharashtra And Another

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Mr. Tabrezuddin Quadri, Advocate for the Petitioner.

Mr. S. B. Jadhav, APP for Respondent-State.

Mr. Subhash S. Nade, Advocate for Respondent No.2.

CORAM : KISHORE C. SANT, J.

DATE : 4th AUGUST 2025.

PC :-

1. Heard Mr. Quadri, the learned Advocate for the petitioner, Mr. Jadhav, the learned APP for Respondent-State, and Mr. Nade, learned Advocate for the Respondent No.2. Petition is take up for final disposal at the stage of admission with the consent of the parties.

2. By way of present writ petition, the petitioner and other accused persons are facing trial under Sections 354, 354(B), 323, 504, 506 read with 34 of the Indian Penal Code, 1860, and Sections 8 and 10 of the

Protection of Children from Sexual Offences Act, (for short POCSO Act), have challenged the order dated 15th April 2025, passed by the learned Special Judge, Osmanabad in Special Case (POCSO) No.36 of 2022, rejecting the application filed by the accused persons.

3. The respondent No.2 is the victim. The petitioner is the accused. In the trial, the victim was examined. However, she was not cross-examined and adjournment was sought. Latter on, it was found that the victim was taken and she specifically filed an application stating that there are threats given to her by the accused persons. It is, thereafter, the petitioner filed an application on 7th May 2025 to recall the victim for cross-examination. The learned APP in the trial Court filed a say showing the earlier conduct of the accused person that he has threatened the prosecution witnesses. He opposed the application.

4. The learned trial Judge on going through the application passed an order rejecting the application. It is specifically observed by the trial Court that looking to the conduct of the accused that he is pressuring the

witnesses to compromise in the matter. The learned Special Judge rejected the application. He has referred to the order passed on Exh.1 dated 15th April 2025. In the order dated 15th April 2025, the learned Judge has observed that the accused had sought adjournment to conduct the cross-examination. That application was allowed subject to payment of costs of Rs.300/-. The said cost was not paid to the witness and again no cross order was passed. It was further reported on the same date that though accused was called out, he did not appear before the Court. It was pointed out that the accused was standing outside the court, and deliberately did not come in the Court hall. Still one more chance was given. Even after that no cross-examination was conducted. The Advocate appearing for the accused informed the Court that the accused is not willing to conduct cross-examination of the witness and is not co-operating. The Court personally interrogated with the accused, however, accused did not answer even the queries of the Court. It is only thereafter the Court closed the evidence of the witnesses.

5. This Court thus finds that it is the accused who, inspite of several

earlier chances, did not deliberately cross-examine the witnesses. The cost was also not deposited. This Court thus finds that no sympathy can be shown to the petitioner merely because he happens to be an accused. Allowing petition would be showing misplaced sympathy. This Court is not convinced by the arguments of the Advocate for the petitioner. Considering above, this Court does not find any merit in the writ petition. Writ petition stands dismissed and disposed off.

[KISHORE C. SANT, J.]