

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

CRIMINAL WRIT PETITION NO. 3875 OF 2024

XYZ

...Petitioner

Versus

The State of Maharashtra & Ors.

...Respondents

Mr. Viral Rathod i/by Mr. Vishwatej Jadhav, Advocate for the
Petitioner.

Mr. S.V. Gavand, Addl. P.P. for the Respondent/State.

**CORAM : RAVINDRA V. GHUGE
&
RAJESH S. PATIL, JJ.**

DATE : 16th JANUARY, 2025

P.C. :-

1. The Petitioner is the first informant, who has lodged the
First Information Report (for short 'FIR') No.0339 of 2024 on 26th
June, 2024 with the Kurla Police Station, Brihan Mumbai City.

2. We have heard the learned Advocate for the Petitioner
and the learned APP on behalf of the Respondents.

3. The Petitioner has raised three issues :-

(a) That, when the informant had reached the Police Station
in the early hours (of the night) on 26th June, 2024, there was

no lady Police Officer and since the offence involved a 10 years girl child, she was called upon to reach the Police Station on the next date. She reached at 10:00 a.m. and the FIR was registered at 16:48 hours.

(b) Section 8 of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act'), was not invoked.

(c) Section 9(m) of the POCSO Act, has not been invoked.

4. During the pendency of this Petition, the Authorities have considered the statement of the victim and have invoked Section 8 of the POCSO Act. With regard to Section 9(m) of the POCSO Act, the learned APP is instructed by the Mr. R.Y. Ahire, PSI, Kurla Police Station, that an appropriate Application would be made before the Trial Court for seeking leave to invoke Section 9(m) of the POCSO Act. We direct the learned Trial Court to deal with the said Application expeditiously and preferably within a period of 30 days from the date of it's filing, on it's own merits. Needless to state, the said Application shall be filed, on or before 24th January, 2025.

5. With regard to the issue of non-registration of the FIR with promptitude, we have perused ground no.7 put forth by the Petitioner below Paragraph No.2, on Page No.7 of the memo of the Petition. It is the contention that the informant was made to wait along with the victim child, at around 00.30 hours, on 26/06/2024. Respondent No.2, Mr. P.R. Pawar, Sr. Police Inspector, Kurla Police Station had declined to register the FIR. The wife of the owner of the house property had also accompanied the informant along with one more female member from the said locality. The Petitioner was asked to come back in the evening of 26th June, 2024. However, the informant reached the Police Station at 10:00 a.m. and the FIR was registered at 16:48 hours.

6. We are, therefore, keeping this aspect open to be canvassed before the Trial Court and we direct the Trial Court to deal with this issue, on its merits. If the Trial Court concludes that any Police Officer is guilty of dereliction in duties and showing insensitivity, an appropriate order shall be passed commensurate to the gravity and the seriousness of the conduct of the said Police Officer.

7. We direct the present SHO of the Kurla Police Station to preserve the CCTV footage from 22:00 hours on 25th June, 2024, until 18:00 hours on 26th June, 2024 and produce the said CCTV footage before the Trial Court. We would not entertain a plea that the CCTVs were not functional. If such a ground is taken, we permit the Trial Court to issue appropriate directions to the Commissioner of Police, Brihan Mumbai City to initiate appropriate action against the concerned Police Officer.

8. With the above directions, this **Writ Petition is disposed off.**

(RAJESH S. PATIL, J.)

(RAVINDRA V. GHUGE, J.)