

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

APPLICATION FOR LEAVE TO APPEAL(STATE) NO. 43 OF 2025

The State Of Maharashtra

...Applicant

Versus

Alhad Balaram Mhatre And Anr

...Respondents

Mr. D.J. Haldankar, APP for the Applicant/State.

Mr. Gaurav Parkar a/w Mr. Tarang Jain, Shantanu Kadam for Respondent.

HC Swapnil Nimbalkar attached to Nhava Sheva Police Station present.

CORAM : M.M. SATHAYE, J.

DATE : 12th JUNE, 2026

P.C. :

1. Heard learned APP for the Applicant/State and learned Counsel for the Respondent/accused.

2. This is an application by State, seeking leave to file appeal challenging the Judgment and Order dated 31.07.2023 passed by Extra Joint District and Additional Sessions Judge, Panvel, Raigad in Special Case (POCSO) No. 191 of 2020, being old Special Case (POCSO) No. 84 of 2016.

3. By the said Judgment and order, the Respondent accused is acquitted of offence punishable under Section 354 of Indian Penal Code, 1860 and offence punishable under Section 7, 8, 9(m), (p), 10, 11(iv) and 12 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO Act' for short).

4. Learned APP invited the attention of the Court to evidence led by various prosecution witnesses, including 2 victims, a head-mistress, 2 teachers, a father of another victim and Investigating Officer. He submitted that based on such evidence, the act of the Respondent accused ought to have been held as proved offence under POCSO Act and there was sufficient corroborating evidence. He submitted that the delay in filing complaint is clearly explainable in the facts of the case considering that young girls of 5th standard having tender age were involved and the reputation of the school was also at stake. He submitted that the manner in which the evidence is appreciated, acquitting the accused requires reconsideration.

5. On the other hand, learned Counsel for the Respondent accused contended that the Respondent has been rightly acquitted. He submitted that the incident is of 21.03.2016 and complaint is filed on 16.06.2016 and there is inordinate delay of 3 months. He submitted that if the oral evidence of victims is seen, necessary ingredients are not made out for the offence alleged. He submitted that out of 8 girls taking education at the relevant time, 5 are alleged to be victim out of which only 2 were examined and there was no corroboration from the other students including boys. He submitted that details about the incident could not be stated by the victim as admitted by them in cross-examination.

6. I have considered the rival submission and perused the impugned order.

7. Cursory look at the oral evidence indicates that the Headmistress of the school, 2 victims, 2 teachers and father of another

victim were examined along with the Investigating Officer. Incident happened when victims were in 5th standard. Therefore they were obviously about 10-11 years old. It must be noted that due to delay in Trial, the evidence has been recorded when the victims had reached age of 17. It cannot be therefore said that every detail of the incident, such as the number of rows, on what side who sat, which student sat and details about the alleged act, can be narrated with precision. On going through the oral evidence of various prosecution witnesses, at least prima facie, I do not find that this is a case where there is no corroboration of the narration about incident.

8. Considering that incident has happened at School and a teacher is involved, the nature of offence is grave.

9. Considering the age and gender of the victims involved, obviously the reputation of the families involved as well as reputation of the school was at stake. Incident was reported to Head mistress by one of the parents on 28.03.2016. Even the other teachers has informed the head-mistress immediately. If the school authorities took some time to verify the allegations, and if some parent of the victim requested the Court not to record evidence, the same is but natural. In that view of the matter, it cannot be said that the delay in filing complaint is so fatal as to justify the acquittal.

10. Non-examination of other students such as boys in the class, in my view, will not have any bearing, considering the fact that 2 victims as well as the teachers involved, to whom the incidence was discussed and disclosed, are examined.

11. In the aforesaid facts and circumstances, the State has made out a case for grant of leave. Accordingly the application is allowed. **Leave is granted to file appeal challenging acquittal of the accused.**
12. Appeal be numbered. **Admit.** Learned Counsel for the Respondent No.2 waives service.
13. Action under Section 390 of Cr.PC. be initiated. The Respondent accused is directed to present himself before the Special Court at Panvel, which will pass necessary further orders.
14. Observation in this order are limited to decide question about grant of leave and appeal shall be decided on its own merits.
15. All concerned to act on duly authenticated or digitally signed copy of this order.

(M.M. SATHAYE, J.)