

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

***SUO MOTO PUBLIC INTEREST LITIGATION (STAMP) NO. 17846 OF 2024
(REGISTERED AS SMP No.1/2024)***

High Court on its Own Motion

Versus

The State of Maharashtra

... Respondent

Dr. Birendra Saraf, Advocate General a/w Mr. Hiten S. Venegavkar, Public Prosecutor and Mrs. P. P. Shinde, A.P.P for the Respondent-State

Special I.G. Mrs. Aarti Singh, SIT Chief, Maharashtra State is present in Court

Mr. Sudhakar Pathare, DCP, Ulhasnagar 2 and 4, is present in Court

**CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.
THURSDAY, 22nd AUGUST 2024**

P.C. :

1 Pursuant to the administrative order passed by the Hon'ble the Chief Justice on 21st August 2024, the aforesaid Suo Moto PIL has been placed before us. We had taken suo moto cognizance of the incident that had taken place at Badlapur on the basis of the news items published in the Times of India, the

Indian Express, Maharashtra Times (Mumbai) and Loksatta. The Suo Moto PIL was initiated on the basis of the reports in the newspapers with respect to sexual assault on two toddlers, aged about 4 years.

2 We find that there is not only delay in the registration of the FIR, but there also appears to be non reporting of the incident of sexual assault by the School Authorities. This is apparent from a perusal of the FIR, which shows that the School Authorities were well aware of the said incident of sexual assault. However, despite the same, the School Authorities failed to report the same to the police.

3 Learned Advocate General, when confronted, submitted that the Government has constituted a Special Investigating Team ('SIT') which is headed by Mrs. Aarti Singh, I.G, only yesterday i.e. on 21st August 2024. He has placed before us, the Notification issued by the State Government, by

which SIT has been formed. The said Notification is taken on record. He submits that all papers pertaining to C.R. No. 380/2024 registered with the Badlapur Police Station, have been forwarded to SIT. Dr. Saraf further, when questioned, states that only one victim girl's statement has been recorded under Section 161 of Criminal Procedure Code ('Cr.P.C') and that her statement under Section 164 Cr.P.C will be recorded today, during the course of the day.

4 When we asked Dr. Saraf, whether the statement of the 2nd victim girl is recorded, we are told that it has not been recorded, till date. We are appalled by the fact that the Badlapur Police Station has not taken any steps to record the statement of the 2nd victim girl, either under 161 or 164 Cr.P.C, till date. It appears that only after the aforesaid Suo Moto PIL was registered yesterday that one of the victim girl's father's statement was recorded belatedly, post midnight.

5 Again, when confronted whether the victims and their families have been given any support i.e. legal support or whether counselling was done, as mandated under the Protection of Children from Sexual Offences Act ('POCSO'), Dr. Saraf, the learned Advocate General assures the Court that all support will be extended to the victim girls and their families. The State is duty bound to give all support to the victims and their families under the POCSO Act. In the cry of victims' families and the society, for justice, the victims and their families' rights under the POCSO Act, cannot be ignored.

6 Learned Advocate General states that since the SIT has taken over the investigation only yesterday, some time be granted to the new team to carry out the investigation.

7 Accordingly, stand over to **27th August 2024**. To be listed at 2:30 p.m. to enable the Advocate General to inform us further steps taken by the SIT in investigation of the said case.

Learned Advocate General to ensure that the case papers of the investigation carried out by Badlapur Police Station, before SIT took over the investigation, are placed before us on the next date.

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.