

MHLA160000772023	<u>Regular Criminal Case No.05/2023</u> <u>Umakant Vs. Mahesh</u>
	

-:: ORDER BELOW EXH.45 ::-

This is application to delete name of accused No.4 as she was minor at the time of alleged incident. Her date of birth is 16/10/2004. According to her, the complainant has filed false complaint against her only to harass and shown her as major.

02. Learned Advocate Shri. M.B. Biradar for complainant opposed this application. According to him, the accused No.4 made party in the complaint due to lack of document. He prayed to reject the application.

03. I have carefully gone through the record and heard both side at length. This is complaint for offence punishable under Section 506 read with Section 34 of the Indian Penal Code in respect of incident dated 31/07/2021. My learned Predecessor had taken cognizance of aforesaid offence. Thereafter, the accused persons were appeared, but they did not take such type of objection. The complainant has adduce evidence before charge. I ordered to frame charge for aforesaid offences. The learned defence Advocate has filed this application at the stage of recording of statement of accused and filed SCC Board Certificate to establish date of birth.

04. As per the SCC Board Certificate, namely Ambika Mahesh Masgalle born on date 16/10/2004. She become major on 16/10/2022. The alleged incident is of dated 31/07/2021. Therefore, it is established that at the time of alleged incident, she was minor. In view of Section 2 (12 & 13) of the Juvenile

Justice (care and protection of Children) Act 2015 defined child and child in conflict with law. Accordingly, she is child and child in conflict with law.

05. In view of Section 3 of the Act provided general principle of Care and Protection of Children. The Government have constituted Juvenile Justice Board in every district as per Section 4 of the Act. In view of Section 9 of the Act provided procedure to be followed by the Magistrate who has not been empowered under this Act. Accordingly, the claim of child in conflict with law may be raised at any stage even after final disposal of stage. It shall be determine in accordance with provisions of the Act, if the Court finds that person committed an offence and was a child on the date of commission of such offence, it shall forward the child to the Court.

06. Accordingly, the complainant has filed the complaint against child in conflict with law. However, he should have take proper precaution and care before filing complaint. This Court has no jurisdiction to entertain or try the complaint against child or child in conflict with law. The Juvenile Justice Board has jurisdiction to entertain that complaint. Accordingly, there is grave mistake and wrong committed by the complainant. This is fit case to impose costs for wrongly tried child in conflict with law and committed breach of her statutory right.

07. As per the order of issue process and charge, prima facie involvement of child in conflict with law in alleged offence is established. But the merits of complaint should not be considered at this stage. In this complaint there are other three

accused, therefore this complaint shall not forward to the board. Instead the forwarding complaint, the complainant may avail remedy to file fresh complaint before the Board, if law permits and subject to the provision of limitation. Hence, the application is deserved to be allowed. In result i pass following order -

ORDER

1. The application is allowed and dropped the complaint against child in conflict with law namely Ambika Mahesh Masgalle subject to costs Rs.2000/- in the interest of justice.
2. The complainant has liberty to file complaint before the board against child in conflict with law, if permitted by the law.
3. The complainant shall pay the costs to child in conflict with law for wrong proceeding.
4. Order dictated on computer and pronounced in open Court.

Date : 30/03/2026.
Place :Deoni.

(S.A. Surjuse)
Judicial Magistrate First Class,
Deoni, Dist. Latur.