

ORDER BELOW EXH.1

(Shweta Amit Bhangе V/s. Amit Prakash Bhangе)

1] Perused application and documents. Heard Advocate for complainant.

2] Application is filed for giving direction to police of Dattawadi police station to investigate the matter under Section 156(3) of Cr.P.C. in respect of offences p/u/s. 354, 376(1), 376(2)(f) of Indian Penal Code and S. 4, 5(n), 7,8,12 of Protection of Children from Sexual Offences Act. Complainant is wife of accused and marriage was solemnized on 23.6.2004. Out of wedlock, they have daughter i.e. victim aged about 8 years 2 months. After marriage there were differences between complainant and accused, therefore by filing Hindu Marriage Petition in Family Court for getting divorce by mutual consent, they obtained decree of divorce by mutual consent on 17.5.2019. However, it was agreed to handover custody of victim to complainant on 1st and 3rd Saturday and Sunday of every month, for remaining days custody of victim was with accused. Prior to divorce, since July-2017 complainant was residing with her relatives and victim was residing with her father i.e. accused. Due to financial problems of complainants and as accused being father of victim, she was kept with accused and complainant was occasionally meeting her.

3] It is further alleged that after divorce, accused removed their maid servant, therefore victim used to remain alone with accused and he was not allowing complainant to meet victim. When victim was talking with complainant on phone, she was in frightened condition. In July-2019 victim started suffering from white discharge, therefore complainant

discussed with accused and he informed that victim was taken to Gynecologist. Thereafter, it revealed to complainant that victim was suffering from mental harassment. So she was taken to child psychologist of K.E.M. hospital on 12.8.2019. Victim was suffering from anxiety and depression and in August-2019 she told complainant that she wanted to go to Lady doctor and not to Gents doctor. Thereafter, victim was speaking in respect of private part and there was increase in her white discharge. Therefore, again she was referred to Gynecologist of Sahyadri Hospital. Prior to that, when victim was checked by Dr. Nene of K.E.M. hospital in August-2019, she complained about inappropriate touch to her private part (vagina) by accused under pretext of applying cream. Upon inquiry with her, she also narrated that accused inserted his finger in her vagina, so there was discharge, accused was entering in bathroom suddenly when she was bathing and used to touch her private part. He threatened to detain and beat her if she disclosed incident to anyone. He was showing threat of injection, threatened to burn her by matchstick.

4] Complainant approached to Bharovasa Cell of police station, but as victim did not open up, no report was registered, then complainant filed complaint application in Commissioner office and other police help centre. Counseling of victim was done by Child Welfare Committee [CWC] and Muskan Institution where she disclosed the incidents. However, police did not take the cognizance of the matter. Therefore, complainant is constrained to file present private complaint.

5] Along with this application, complainant filed her affidavit, Aadhaar Card of victim showing her age, two reports of Dr. Nene of K.E.M. hospital, prescriptions of victim, certificate issued by Dr. Sabne,

copy of complaint application filed at Dattawadi police station by complainant, on-line complaint details of the concerned police station. In complaint application before Dattawadi police station complainant made similar allegations of fingering to victim by accused and inappropriate touch to her private part by him etc. In report of assessment dt. 12.8.2019, Dr. Nene of K.E.M. hospital observed tremendous emotional pressure, loneliness, painful experience of victim, she could tell about infection in genital area and need to apply medication for the same. In report dt. 17.2.2020 of K.E.M. hospital Doctor observed similar behaviour and sufferings of victim and fact that she does not like to stay with her father, his harsh treatment, victim complained about stomach ache and white discharge. If so, then father has to apply medication to her private part which hurts her. Lastly, Doctor observed that victim was suffering from strong emotional disturbance in terms of feeling of insecurity, helplessness, fearfulness and sadness.

6] According to complainant, due to sufferings of victim and allegations made by her, she approached to concerned police station, complaint application was also filed on-line in Commissioner Office and counseling was done by CWC and Muskan Foundation. However, police failed to take cognizance of the offences. As discussed above, basic requirement of filing complaint application before concerned police station is complied by the complainant. Copy of on-line complaint application is also on record, but there is nothing on record to show that police took the cognizance of present matter. Moreover, by filing affidavit complainant complied another requirement in respect of sending matter for investigation by police under section 156(3) of Cr.P.C.

7] Prima facie, there are allegations of cognizable offences under Section 376(2)(f) of IPC and S 4,5(n),7,8,12 of POCSO Act. So, detail investigation in this matter is required. In view of above discussion, on the basis of complaint application, reports from K.E.M. hospital, affidavit of complainant, it is proper to send the matter to concerned police station for investigation u/s. 156(3) of Cr.P.C. and following order is passed:-

ORDER

1] Concerned authorized Officer of Dattawadi police station is directed to investigate the matter under section 156(3) of Cr.P.C. and submit report to this Court.

2] Application is disposed of accordingly.

Pune.
Date – 03.11.2020.

(R.V.Adone)
Addl.Sessions Judge, Pune.

“ I affirm that the contents of the P.D.F. File Judgment are same word for word as per original judgment.

Name of Steno	- Sau. Arya Nikam (Stenographer G-1)
Court Name	- Smt. R.V.Adone, Addl.Sessions Judge,Pune.
Date of Order	- 03.11.2020.
Order signed by P.O.	- 03.11.2020.
Order uploaded on	- 04.11.2020.

