

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

**Criminal Appeal No.....of 2026
[@ Special Leave Petition (Crl.) No.2163 of 2025]**

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....Appellant

Versus

State of Maharashtra and Anr.

....Respondents

ORDER

Leave granted.

2. It is commonplace, nay customary that in-laws are dragged in to settle scores in cases arising out of marital discord and often children are used to vilify each other. But we are shocked by the allegations raised herein by the divorced mother that her son is constantly molested sexually by his paternal aunt. The FIR is alleged to be a counterblast to an FIR lodged by the divorced father with an equally shocking allegation against the maternal uncle, here alleging the offence against the twin sister of the boy.

3. The appellant herein is the paternal aunt of the twins born in the wedlock of her brother, who is now divorced. The

decree of divorce, obtained on mutual consent is produced as Annexure P1; dated 05.09.2023. The children are under the custody of the father with visitation rights to the mother's home. We see from the FIR that the de-facto complainant/mother alleges that the complaint of sexual harassment was raised by her son even while she was in the matrimonial home and she also spoke of having witnessed one such incident. The entreaties to the husband did not evoke any response is the allegation. Obviously, no such allegation was raised even at the time of divorce nor was a complaint raised at any time before the FIR filed on 17.03.2024, just a few hours after the father filed an identical FIR. The FIS, on a plain reading does not inspire confidence.

4. We notice that initially a Division Bench of the High Court of Bombay had stayed the proceedings, finding on a perusal of the records that *prima facie* the complaint lodged by the mother has no substance. It was also specifically noticed that the statement of the victim boy recorded under Section 164 of the Criminal Procedure Code by the learned

Judicial Magistrate of the First Class indicates that no assault as stated by the de-facto complainant had been occasioned.

5. However, at the final hearing, despite their attention being drawn to the said order, which is also referred to, the learned Judges of the Division Bench without looking into the FIS or the Section 164 statement, found that since cross complaints are raised and there are accusations leveled, the appellant must undergo trial. The learned Judges too had observed that they were startled by the allegations made, but failed to look at the material on record; which another Division Bench had verified and found the complaint itself to be without any substance for reason of the boy having stated no such incident before the Magistrate.

6. The Division Bench which considered the matter ideally, ought to have looked into the records especially when another Division Bench; though in an interim order, noticed that *prima facie* the allegations cannot stand. In the totality of the circumstances, we are of the opinion that there is absolutely no reason why the petitioner should be subjected to a trial and the 2nd respondent – the mother, has also not entered appearance despite service having been effected.

7. We hence quash FIR No.100/2024 registered at Khadki Police Station, Pune under Section 354 of the Indian Penal Code, 1908 and Section 8 of the Protection of Children from Sexual Offences (POCSO) Act, 2012. There shall be no further proceedings taken in pursuance of the FIR.

8. The appeal stands allowed.

9. Pending application(s), if any, shall stand disposed of.

..... J.
(J.B. PARDIWALA)

..... J.
(K. VINOD CHANDRAN)

**NEW DELHI;
JULY 23, 2026.**

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No(s).2163/2026

[Arising out of impugned final judgment and order dated 17-12-2025 in CRWP No. 1278/2024 passed by the High Court of Judicature at Bombay]

ARCHANA AVINASH SHELKE

Petitioner(s)

VERSUS

THE STATE OF MAHARASHTRA & ANR.

Respondent(s)

IA No. 39008/2026 - EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT

IA No. 39011/2026 - EXEMPTION FROM FILING O.T.

Date : 23-07-2026 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE K. VINOD CHANDRAN

For Petitioner(s) :Ms. Sana Raees Khan, Adv.
Mr. Dhawesh Pahuja, AOR

For Respondent(s) :Mr. Samrat Krishnarao Shinde, Adv.
Mr. Siddharth Dharmadhikari, Adv.
Mr. Aaditya Aniruddha Pande, AOR
Mr. Shrirang B. Varma, Adv.

UPON hearing the counsel the Court made the following
O R D E R

1. Leave granted.
2. The appeal is allowed in terms of the signed order which is placed on the file.
3. Pending application(s), if any, shall stand disposed of.

(HARPREET KAUR)
COURT MASTER (SH)

(POOJA SHARMA)
COURT MASTER (NSH)