

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

CRIMINAL WRIT PETITION NO. 2012 OF 2021

Ajay Sahebrao Aher

...Petitioner

Versus

The State of Maharashtra & Anr.

...Respondents

...

Ms. Vrushali Raje for Petitioner.

Mr. Deepak Thakre, PP for State.

Mr. V.A. Ghule for Respondent No. 2.

...

**CORAM : S. S. SHINDE &
G.A. SANAP, JJ.**

DATE : 25th JUNE, 2021.

P.C.:

1. Rule. Rule made returnable forthwith and heard with the consent of learned counsel appearing for the parties.

2. The Petitioner has filed this petition with following substantive prayer:-

(a) This Hon'ble court be pleased to issue Writ of certiorari or any other appropriate Writ, order or direction in the nature of Certiorari to quash the proceedings arising out of CR no. 72 of 2019 registered at Chandwad police station u/s 354 D, 435, 500 of IPC read with sec 66 (d) of the Information and technology act.

3. The FIR was lodged on the basis of report of father of the victim. Initially Section 354 D of IPC was not added in the FIR, but

later on it came to be added on the basis of some material collected during the course of investigation.

4. During the pendency of this petition, as stated by the learned counsel appearing for the parties, the informant, victim and accused have settled the matter between them. In order to verify the factual position, this Court interacted with victim and father of the victim. The necessary facts to that effect have been recorded in the order dated 1st June, 2021, more particularly para no. 5. It would be appropriate to reproduce para 5, which reads thus:-

“5. The victim is present before this Court through video conferencing and has been identified by her Advocate Mr. Ghule. Upon enquiry, she has expressed her desire that the said FIR may be quashed so as to move on further in life and requests that her presence be dispensed with on the next date as she is from remote place and in the family way. Accordingly her presence on the next date may be dispensed with.”

5. The victim as well as father of the victim have filed the affidavit. On going through the affidavit of victim and other material which has been brought on record, in the backdrop of this development we are of the *prima facie* opinion that Section 354 D of IPC would not get attracted in this case.

6. It is pertinent to mention that the prosecution cannot sustain if victim and father of the victim do not support the prosecution. In our opinion, in the backdrop of the material placed on record, further continuation of the prosecution would be wastage of time and abuse of the process of law. In the backdrop of facts brought on record, and in view of the compromise between the parties we are of the opinion that, the continuation of prosecution on the basis of impugned FIR, would be a exercise in futility. It has come on record that after the FIR the victim got married. She is pregnant. The continuation of prosecution would not be in the interest of victim's married life. The informant has also filed the affidavit. Perusal of his affidavit shows that no purpose would be served by continuing the prosecution.

7. We are of the *prima facie* opinion that, in view of this material and subsequent developments, Section 354 D of IPC would not get attracted. Therefore, we propose to allow this petition. Hence, the following order:-

ORDER

- I) The writ petition is allowed in terms of prayer clause (a).

II) The FIR bearing CR No. 72 of 2019 registered at Chandad Police Station for the offences punishable under Section 354 D, 435, 500 of IPC read with Section 66 (d) of the Information and Technology Act, is hereby quashed.

III) Rule is made absolute to above extent. The writ petition stands disposed of.

(G.A. SANAP, J.)

(S. S. SHINDE, J.)