

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

CRIMINAL WRIT PETITION NO.1397 OF 2020

Muhammed Atif Khan

...Petitioner

Versus

1. State of Maharashtra

2. Masira Ajaz Khan

...Respondents

Mr. Mohammed Arif Siddiqui, for the Petitioner.

Mr. Y. M. Nakhwa, A.P.P for the Respondent No.1–State.

Mr. Irfan Ansari, for the Respondent No. 2.

***CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.***

DATE : 14th SEPTEMBER 2022

P.C. :

1. Heard learned counsel for the parties.

2. Rule. Rule is made returnable forthwith, with the consent of the parties and is taken up for final disposal. Learned A.P.P waives service on behalf of the respondent No.1–State. Mr. Ansari waives service on behalf of the respondent No.2.

3. By this petition, the petitioner seeks quashing of the FIR bearing C.R. No. 344 of 2016 registered with the Nagpada Police Station, Mumbai, for the alleged offences punishable under Sections 323, 354, 354-D of the Indian Penal Code ('IPC') and under Sections 8 and 12 of the Protection of Children from Sexual Offences Act ('POCSO Act').

4. Learned Counsel for the petitioner submits that the parties have resolved their dispute amicably and that the respondent No. 2 has filed her affidavit-in-support of the writ petition, giving her no objection to the quashing of the proceeding i.e. the aforesaid C.R and all consequential proceedings thereto. He submits that even if the prosecution case is taken as it stands, at the highest the offence would be one under Sections 354 and 323 of the IPC and not under Section 354-D of the IPC or Sections 8 and 12 of the POCSO Act.

5. We have perused the complaint of the respondent No.2, which is on page 17 of the petition. From the said complaint/FIR, it

appears that the petitioner and the respondent No.2 were known to each other for a couple of months and that they were talking on phone, which was objected to by her family members. The respondent No.2 has stated that the petitioner and she had a quarrel and that the petitioner would still come and knock on their door. The respondent No.2 has further stated that when her family members learnt about the same, the father of the informant met the father of the petitioner and asked him to give an understanding to the petitioner that he should not talk or keep any relations with her, pursuant to which she stopped talking to the petitioner. She has further alleged that on 4th October 2016, when she along with her mother were returning home, the petitioner came and dashed against her, as a result of which, she fell down; that he slapped her on her face and questioned her, as to where she had gone and that why she had not informed him; that he pulled her right hand tightly, as a result of which, she felt her modesty was outraged; that her mother separated her from the petitioner, after which a complaint was lodged. A perusal of the complaint would show that at the highest Sections 323 and 354 of IPC would be

attracted and certainly not one under Sections 8 or 12 of the POCSO Act.

6. It appears that after the incident, the parties have decided to settle their dispute amicably. The respondent No.2 has filed her affidavit-in-support of the writ petition. She has in her affidavit stated that she has realised her mistake and that the complaint was lodged in a haste and due to misunderstanding, as against the petitioner, and, that she is no more interested in proceeding with the aforesaid FIR. On being questioned, the respondent No.2 re-iterates what is stated by her in her affidavit. Learned counsel for the respondent No. 2 has tendered a self attested xerox copy of the aadhar card of the respondent No. 2. The same is taken on record. Learned Counsel for the respondent No.2 has identified the respondent No.2. It appears that at the time of the incident, the respondent No.2 was about 17 years old and today is about 19 years old.

7. Learned APP has also verified the original aadhar card with

respect to the identity of the respondent No.2.

8. Considering the nature of dispute, the amicable settlement between the parties and judicial pronouncements, there is no impediment in allowing the petition.

9. The petition is accordingly allowed and the FIR bearing bearing C.R. No. 344 of 2016 registered with the Nagpada Police Station, Mumbai and all consequential proceedings arising therefrom, are quashed and set-aside.

10. Rule is made absolute in the aforesaid terms. Petition is disposed of accordingly.

All concerned to act on the authenticated copy of this order.

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.