

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.791 OF 2022

**DILIP RAMBHAU PATIL
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr. V. P. Patil, Advocate for the applicant
Mr. S. D. Ghayal, APP for the respondent/State
Mr. Joydeep Chatterjee, Advocate h/f Mr. S. T. Kazi, Advocate for
respondent No. 2.

**CORAM : SMT. ANUJA PRABHUDESSAI AND
R. M. JOSHI, JJ.**

DATE : 12th JANUARY, 2023

PER COURT :-

1. This is an application under Section 482 of the Code of the Criminal Procedure for quashing the FIR bearing CR No. 324 of 2021 registered at Ramanand Nagar Police Station, Jalgaon and R.C.C. No. 145 of 2022 pending before the CJM, Jalgaon for the offences punishable under Sections 354(D), 500 of the Indian Penal Code.

2. With consent, heard learned for the applicant, learned APP for the respondent/State and learned counsel for respondent No. 2, finally at the stage of admission. We have perused the records and considered the submissions advanced by learned counsel for the respective parties.

3. Learned counsel for the applicant states that he does not wish to press for any relief in respect of offence under Section 354(D) and restricted the application for quashing of the FIR in respect of offence under Section 500 of IPC.

4. The offence under Section 500 of the IPC has been registered by the Police pursuant to the complaint lodged by respondent No. 2. Section 199 of Cr.P.C. provides that "no Court shall take cognizance of an offence punishable under Chapter XXI of the Indian Penal Code except upon a complaint made by some person aggrieved by the offence". The complaint as defined in Section 2(d) means "any allegations made orally or writing to a Magistrate". Undisputedly the respondent No. 2 had not lodged any complaint and as such Magistrate could not have taken cognizance of offence under Section 500 of the IPC on the basis of the police report. In such circumstances, the application is partly allowed. The FIR No. 324 of 2021 and R.C.C. No. 145 of 2022 is quashed only as regards offence under Section 500 of the IPC. It is stated that trial is regards the offence under Section 354(D) of the IPC is in progress. The Trial Court shall proceed with the matter on its own merit.

(R. M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J.)

ssp