

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

CRIMINAL WRIT PETITION NO.1574 OF 2022

**RAHUL SHANKARRAO WADHAVE
VERSUS
THE STATE OF MAHARASHTRA**

...

Mr. R.A. Jaiswal, Advocate for the Petitioner
(Appointed).

Mr. M.M. Nerlikar, APP, for the Respondent – State.

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

DATE : JANUARY 18, 2023

PER COURT :

1. By this petition petitioner, who is an under trial prisoner, has sought to register cognizable case against his wife as per complaint dated 15th November, 2021 and also seeks departmental enquiry and action against Respondent Nos. 2 & 3 for having failed to follow the guidelines in the case of Lalita Kumari and Arnesh Kumar.

2. Since the petition was filed by under trial prisoner, Mr. R.A. Jaiswal, Advocate was appointed to espouse the cause of the Petitioner.

3. We have heard learned Counsel for the Petitioner and learned APP for Respondent – State. We

have perused the records and considered the submissions advanced by learned Counsel appearing for respective parties.

4. The grievance of the Petitioner is that the Respondent nos. 2 and 3 have not registered crime against his wife despite complaint dated 15.11.2021. A perusal of the said complaint reveals that there was matrimonial dispute between the petitioner and his wife. It is stated that a divorce Petition was filed and that the marriage has already been dissolved. Dispute regarding the custody of the minor child is pending final adjudication. By order dated 14th October, 2021 the interim custody of the minor child has been given to the wife.

5. The records reveal that the wife of the Petitioner had filed complaint against the Petitioner pursuant to which crime nos. 380/2015 and 461/2021 have been registered against the Petitioner. The investigation is concluded and charge-sheet has been filed in respect of both these crimes and the Petitioner is facing trial for serious offences including offences under the POCSO Act for subjecting

the minor daughter to sexual harassment.

6. The contention of the Petitioner is that Sudarshan, relative of her wife, filed false complaint against him. Learned APP placed before us report which indicates that crime no. 380/2015 was registered against the Petitioner pursuant to the report lodged by Sudarshan. Learned APP placed on record another report which indicates that pursuant to the complaint lodged by the Petitioner crime was registered against his wife and others. The said crime was investigated and 'c' summary report has already been filed. The police had registered NCR No. 127/2020 against the Petitioner pursuant to complaint lodged by his wife Archana. The other two crimes are pending trial. The question as to whether the Petitioner has been falsely and maliciously implicated in these crimes cannot be determined at this stage. Hence, the Petition is dismissed with liberty to file appropriate petition/complaint in the event of any observations by the concerned Court in the proceedings wherein the Petitioner is facing trial pursuant to the complaint lodged by his wife.

7. Fees of the appointed Advocate is quantified @ Rs. 6,000/- to be paid by High Court Legal Services Sub-Committee, Aurangabad.

(R.M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J)