

ANANT
KRISHNA
NAIK

Digitally signed
by ANANT
KRISHNA NAIK
Date:
2023.01.25
14:02:51 +0530

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

WRIT PETITION NO. 5086 OF 2021

Deepak Shantaram Mhaskar S/o Shantaram
Mhaskar
V/S

....PETITIONER

The State Of Maharashtra

....RESPONDENT

Mr. Santosh M. Kale for the Petitioner
Smt. V. B. Konde-Deshmukh, APP for respondent-state

**CORAM : NITIN W. SAMBRE &
R. N. LADDHA, JJ**

DATED : 23rd JANUARY, 2023

P.C.:

1. Heard.
2. The petitioner, complainant is seeking investigation in addition to existing one for the offence punishable u/s. 354, 509 of IPC and section 8 & 12 of POCSO Act.
3. The case of the prosecution is, the petitioner was illegally dispossessed by the accused person viz. Chandrakant Vanjare. During such activity alleged offence punishable u/s. 354 and 509 is committed.
4. The complainant i.e. the petitioner has lodged complainant on 07/09/2021 resulting into registration of offence being C.R. No. 527 of 2021 punishable u/s. 448, 323, 506 r/w. 34 of IPC. In the complaint

which was recorded on 07/09/2021 petitioner has mentioned about alleged offence u/s 354 of IPC.

5. Learned APP has produced before us the entire investigation papers. The claim of the petitioner is that of commission of offence u/s 354 of IPC in relation to his daughter by the accused person. The investigating officer has recorded the statement of the daughter of the petitioner u/s. 161 of Cr.P.C. wherein she has specifically stated about she having been not suffered any bad touch though she has narrated the occurrence of the offence in detail.

6. In the aforesaid background, once the petitioner's case for offence punishable u/s. 354 of IPC is based on the incident happened with his daughter and daughter having not supported the occurrence of such offence punishable u/s. 354 of IPC, it will not be appropriate for this Court to direct registration of offence as has been claimed by the petitioner.

7. Keeping option to the petitioner to move for alteration of charge / to assist the prosecution, we do not see any reason which warrants grant of prayer moved by the petitioner. That being so, the petition is dismissed.

(R. N. LADDHA, J)

(NITIN W. SAMBRE, J.)