



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.1039 OF 2024

Khaled Abu Turab
At present lodged in
Aurangabad Central Prison.

.. Petitioner

Versus

The State of Maharashtra
Through Police Station,
Chikalthana, Aurangabad.

.. Respondent

...

WITH

CRIMINAL APPLICATION NO.2221 OF 2024
IN CRIMINAL WRIT PETITION NO.1039 OF 2024

...

Mr. S. B. Yawalkar, Advocate for the petitioner (Appointed).
Mr. Satej S. Jadhav, Advocate for the petitioner.
Mr. N. R. Dayama, Advocate for the respondent – State.

...

**CORAM : SMT. VIBHA KANKANWADI &
S. G. CHAPALGAONKAR, JJ.**

DATE : 26 SEPTEMBER 2024

ORDER :

. Learned Advocate Mr. S. B. Yawalkar appointed by this Court submits that now the petitioner has engaged Advocate of his choice. Learned Advocate Mr. Satej S. Jadhav is present before the Court and reiterates the fact that the petitioner has engaged him.

2. It appears that by way of this writ petition the petitioner, who claims that he is the victim, is aggrieved by the fact that the State/prosecution has not filed any appeal challenging the acquittal of the accused persons in Sessions Case No.200 of 2021 regarding Crime No.157 of 2019 registered with Chikalthana Police Station for the offences punishable under Sections 307, 143, 147, 148, 149 and 504 of Indian Penal Code vide judgment dated 31.01.2023 by learned 8th Additional Sessions Judge, Aurangabad.

3. Learned Advocate Mr. Satej S. Jadhav agrees that there is a specific provision i.e. proviso to Section 372 of the Code of Criminal Procedure for filing appeal by the victim. Under such circumstance, we are of the opinion that when there is a specific provision, the writ petition will not lie and, therefore, the writ petition is disposed of in view of the statement that the petitioner would be persuaded to file the appeal. Further, we may also observe that the prosecution may also take independent decision on its own and the learned APP would take care of the said fact.

4. The same petitioner has also filed Criminal Application No.2221 of 2024 wherein he submits that he has been convicted in Sessions Case No.712 of 2019 for the offences punishable

under Sections 302, 143, 144, 147, 148 of Indian Penal Code by the same Court on the same date, which appears to be arising out of the cross case i.e. FIR vide Crime No.156 of 2019. According to him, mobile data was not collected and whatever has been collected was not supplied to him. Learned Advocate Mr. Satej S. Jadhav, who has received the instructions from the applicant/petitioner, submits that the petitioner has already filed appeal challenging his conviction.

5. Under such circumstance, when substantive right has been exercised and all these prayers can be considered in the said appeal, we are of the opinion that no action is required to be taken in this application.

6. In view of this, both the proceedings i.e. Criminal Writ Petition No.1039 of 2024 and Criminal Application No.2221 of 2024 stand disposed of.

7. Learned Advocate appointed by us submits that he will not accept any money for whatever assistance he has rendered to the Court. We appreciate his step and we appreciate his efforts.

[S. G. CHAPALGAONKAR]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE

scm