

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL WRIT PETITION NO. 3427 OF 2025**

Kiran Manohar Arne

.....Petitioner

Vs.

The State Of Maharashtra & Anr.

.....Respondents

Mr. Aditya Chandak for the Petitioner.

Smt. M.M. Deshmukh APP, for the Respondent-State.

**CORAM : A. S. GADKARI AND
RAJESH S. PATIL, JJ.****DATE : 3rd JULY, 2025.****PC:-**

1) By the present Petition under Article 226 of the Constitution of India, the Petitioner has prayed for the following substantive relief.

“b) The FIR No: 196 of 2016 dated 196/2016 registered with Wadhiware Police Station, Nashik registered under Sections 354, 354A of Indian Penal Code along with the Judgment passed in RCC 35/2022 by the Ld. Judicial Magistrate First Class Court, Igatpuri, may kindly be quashed and set aside;”

2) Heard Mr. Chandak, learned Advocate for the Petitioner and Smt. Deshmukh, learned APP for the Respondent No.1-State. Perused record.

3) It is an admitted fact on record that, the Petitioner has been convicted by the learned Judicial Magistrate First Class, Igatpuri, District Nashik, in R.C.C.No.35 of 2022, vide Judgment and Order dated 15th February, 2023 under Sections 354 and 354-A of the Indian Penal Code. The trial Court has prescribed specific term of sentence after convicting the Petitioner.

4) It is also an admitted fact on record that, the Petitioner has thereafter preferred Criminal Appeal No.66 of 2023 in the Court of District and Sessions Judge at Nashik and the said substantive Appeal is still pending for final adjudication.

5) In this precise background, a composite prayer is made for quashing of FIR No.196 of 2016 dated 11th September, 2016 and for quashing and setting aside the Judgment and Order dated 15th February, 2023 passed in R.C.C. No. 35 of 2022 passed by the learned JMFC, Igatpuri.

6) The Constitution Bench of Supreme Court in the case of *Naresh Naresh Shridhar Mirajkar & Ors. Vs. State Of Maharashtra & Anr. reported in AIR 1967 SC 1*, has held that, the writ jurisdiction is not amenable for challenging the judicial Orders. According to us, the said view of the Constitution Bench still holds the field and is recently followed in the case of *Neeta Singh & Ors. Vs. The State of Uttar Pradesh & Ors., Special Leave to Appeal (Cri.) No. 13578/2024, dated 15/10/2024*, by the Supreme Court. Despite the said settled legal position, Advocate for the Petitioner

has ventured into filing such Petition in utter disregard to the law laid down by the Hon'ble Supreme Court. It is a matter of fact that, we tried to explain him that such Petitions are not maintainable, however he invited our Order on merits.

6.1) The conduct of the Advocate Mr. Chandak is thoroughly unprofessional and is not appreciated. According to us, the relief as far as quashing of Judgment and Order passed in RCC No.35 of 2022 concern by way of a Petition under Article 226 of the Constitution of India is sheer abuse of process of law.

7) As noted above, as of today the Petitioner is convicted and his substantive Appeal is pending before the Appellate Court for final adjudication. The Full Bench of this Court in the case of *Maya Sanjay Khandare & Anr. Vs. State of Maharashtra reported in 2021 Cri. L.J. 1681*, while dealing with the similar situation in paragraph 33 has held as under:-

“33. Hence, we hold that ordinarily the contention that the convict and the informant/complainant have entered into a compromise after the judgment of conviction can be raised only before the appellate/revisional Court in proceedings challenging such conviction.....”

8) Learned Advocate for the Petitioner by relying on the decision in the case of *Ramawatar Vs. State of Madhya Pradesh reported in 2021 CJ (SC) 535*, tried to peruse this Court that, while exercising our jurisdiction under Section 482 of Cr.P.C., we can quash the entire proceedings.

8.1) It be noted here that, present Petition is filed under Article 226 of the Constitution of India. Though the Advocate for the Petitioner has mentioned Section 482 of Cr.PC. in the cause title of the Petition, according to us, no writ would lie under Section 482 of Cr.PC.

8.2) Perusal of decision in the case of *Ramawatar (Supra)* clearly indicates that, the dispute therein was arising out of ownership and possessory rights of the piece of land between the Appellant and his neighbour and out of the said dispute an offence under Section 3(1)(x) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities Act), 1989 (in short "*SC/ST Act*") r/w Section 34 of the IPC was lodged. The trial Court had convicted and sentenced the Appellant therein for a period of six months of rigorous imprisonment.

8.3) In the said state of facts, in paragraph 10 Supreme Court has held that, the jurisdiction of a Court under Section 320 of Cr. P.C. cannot be construed as a proscription against the invocation of inherent powers vested in this Court under Article 142 of the Constitution nor on the powers of the High Courts under Section 482 of Cr.PC.. It is further held that, therefore the Supreme Court or the High Court, as the case may be, after having given due regard to the nature of the offence and the fact that the victim has willingly entered into a settlement/compromise, can quash the proceedings in exercise on their respective constitutional/inherent powers.

8.4) In the case of *Ramgopal & Anr. V The State of Madhya*

Pradesh, Criminal Appeal No.1489 of 2012, the Supreme Court has further postulated that, in criminal proceedings involving in non-heinous offences or offences which are predominantly of a private nature, could be set aside at any stage of the proceedings, including at the appellate level.

9) In the case in hand, the offence committed by the Petitioner is against the victim, a woman, of sexual harassment and outraging her modesty. The said offence has been proved beyond reasonable doubt and therefore the Petitioner has been convicted by the trial Court.

9.1) Perusal of the Judgment passed by the trial Court, particularly in paragraph 26 thereof clearly discloses that, the offence alleged against the Petitioner was of heinous nature and therefore also in our considered view, this is not a fit case to quash the crime in question. The offence alleged against the Petitioner affects the society at large and not for individual, though it is lodged by the victim.

10) As noted earlier, the substantive Appeal preferred by the Petitioner is pending before the Appellate Court. The Petitioner may adopt the ratio laid down in the case of *Maya Sanjay Khandare & Anr. (Supra)* for his plea, before the Appellate Court.

11) In view of the above, we find no merits in the Petition and is accordingly dismissed.

(RAJESH S. PATIL, J.)

(A.S. GADKARI, J.)

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