



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 6667 OF 2021

Pashminu Shyam Mansukhani ...Petitioner

Versus

The State of Maharashtra & Another ...Respondents

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Mr. Harekrishna Mishra a/w Mr. Satish B. Yadav i/by Ms. Poonam S. Devkar, Advocate for the Petitioner.

Mr. Sachin R. Agawane for Respondent No.2.

Mrs.M.H. Mhatre, APP for the Respondent No.1 – State.

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CORAM : PRAKASH D. NAIK, &
N. R. BORKAR, JJ.

DATE : 30th NOVEMBER, 2023.

P.C.:

1. Heard both sides. Petitioner challenges the proceedings in C.C. No.169 of 2021 pending before the learned Metropolitan Magistrate 18th Court at Girgaon, which are arising out of C.R. No.588 of 2021 registered with D.B. Marg Police Station, Mumbai for offences punishable under Sections 354 (c), 500 of Indian Penal Code (for short "IPC") and Section 66 (e) of the Information Technology Act.

2. The case of the prosecution is that the Petitioner, who is a professional photographer had clicked the photographs of the complainant which were uploaded on the Websites i.e. www.digitalstudio.in, <https://in.pinterest.com> and www.pixabay.com The photographs were shot with the consent of the complainant. However, after the photographs were uploaded on the aforesaid website, they were uploaded on the objectionable websites by some unknown persons.

3. Learned counsel for the Petitioner submitted that, admittedly the case of the prosecution is that the photographs were uploaded on objectionable website by unknown person. The role attributed to the applicant is that he had uploaded the photographs on the Websites i.e. www.digitalstudio.in, <https://in.pinterest.com> and www.pixabay.com. There is no evidence on record to indicate that Petitioner was instrumental in uploading the photographs on the objectionable website. The complainant herself had also uploaded her photographs on website <https://in.pinterest.com>

4. Learned counsel for the Respondent however submit that on account of the photographs being uploaded on the Websites i.e. www.digitalstudio.in, <https://in.pinterest.com> and www.pixabay.com without the permission of the complainant, the

said photographs were uploaded on objectionable website which has caused mental trauma to the complainant. It is on account of the act committed by the Petitioner, the complainant has suffered the trauma as the photographs were uploaded on various objectionable websites.

5. The question which arises for consideration is whether Section 354(c) and other offences invoked in this proceedings are attracted against the Petitioner.

6. Arguable questions are raised.

ORDER

- i. Rule.
- ii. Leave to amend the prayer clause (B). Amendment may be carried out forthwith.
- iii. There shall be ad-interim relief in terms of prayer Clause (D) till final disposal of the Petition.

(N. R. BORKAR, J.)

(PRAKASH D. NAIK, J.)