

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.

Office Memoranda of appearance, directions and orders.	Notes, of Court's orders and Registrar's	Office Coram, Court's or Judge's orders.
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CRIMINAL APPLICATION NO. 1435 OF 2015

MRS. SUREKHA W/O RAVINDRA SHINDE
VERSUS
RAVINDRA S/O NARAYAN SHINDE & ORS

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Advocate for Applicant : Mr. P. B. Rakhunde, Advocate h/f
Mr. Bhapkar S. B.
Advocate for Respondent Nos.1 to 7: Mr. C. K. Shinde.

CORAM: T. V. NALAWADE, J.
DATED: 22nd JUNE, 2015.

PER COURT:

1. The application is filed to challenge the judgment and order of Criminal Revision No.21 of 2014 which was pending in the Court of Additional Sessions Judge, Bhusawal. The Revision was filed by the Respondents to challenge the order of issue process made by learned J.M.F.C. for offence punishable under section 494 read with 109 of Indian Penal Code which was challenged in the Revision.
2. Both the sides are heard.

3. This Court has gone through copy of the complaint. Copy of the complaint was not produced in this proceeding. It is produced in the Court. It was shown to the other side. This Court has gone through the order of issue process and also the decision given by Sessions Court. It can be said that learned J.M.F.C. had not applied mind while making the order of issue process. The order of issue process came to be made as against accused Nos.1, 2, 8, 9, 16, 19 and 20 for offence punishable under Sections 494 read with 34 of Indian Penal Code (Section 109 of Indian Penal Code is not shown). It is observed that there are no specific allegations as against other accused.

4. The order of issue process was made on the basis of allegations made in the complaint and verification of the complainant only. The complaint shows that only due to two circumstances like filing of H.M.P. proceeding by husband, accused No.1 under section 9 of Hindu Marriage Act and birth of two issues to accused No.2, the complainant learnt about the second marriage. In the entire complaint she has not mentioned that some witnesses actually witnessed the second marriage

between accused Nos.1 and 2 and they gave information to her. The list of witnesses do not contain name of any witness who had witnessed the second marriage. Learned counsel for the accused, relied on the case of **“Yashwant Bhavdu Patil and others V/s State of Maharashtra and another”** reported in **2006 ALL MR 2479** Aurangabad Bench and **“Prakash S/o. Limbaji Dhole V/s The State of Maharashtra And Another”** reported in **2013 All MR (Cri.) 3886** Aurangabad Bench. This Court has gone through the observations made. In the present case it is not case of personal knowledge and she has no witness who witnessed second marriage. In spite of these circumstances, the learned Judge issued process. This Court holds that the Sessions Court has not made any error. No interference is called. The application stands dismissed.

[T. V. NALAWADE, J.]

Dt.22/06/2015
ans/1435