

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO.323 OF 2016

Sau. Madhuri Ramakant Desle,
Age-38 years, Occu:Service,
R/o-3- Akash Apartment, Flat No.1,
Kamathwada, Nashik, Tq. & Dist-Nashik

...PETITIONER

VERSUS

- 1) Shri Ramakant Pundlik Desle,
Age-43 years, Occu:Service,
R/o-Post-Deur(Budruk),
Tq-Sakari, Dist-Dhule,
- 2) Jayshri Nathu Shewale
alias Jayshri Ramakant Desle,
- 3) Shri. Pundlik Gajmal Desle,
- 4) Sau. Chitrakala Pundlik Desle,
- 5) Shri Prabhakar Pundlik Desle,
- 6) Sau Chotibai Prabhakar Desle,
- 7) Shri Giridhar Nathu Ahirrao,
- 8) Sau. Abai Giridhar Ahirrao,
- 9) Shri Sunil Ragunath Deore,
- 10) Sau. Rekha Sunil Deore,
- 11) Shri Shamkant Hari Marathe,

- 12) Sau. Surekha Shamkant Marathe,
- 13) Shri Devidas Bhattu Ahire,
- 14) Shri Suresh Bhattu Ahire,
- 15) Shri Natthu Trimbak Shewale,
- 16) Sau. Mangala Natthu Shewale,
- 17) Shri Avinash Natthu Shewale,
- 18) Sau. Savita Avinash Shewale,
- 19) Shri Kantilal Shamrao Gangurde,
- 20) State of Maharashtra.

...RESPONDENTS

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Mr.R.D. Deshmukh Advocate for Petitioner.
Mr.K.S. Hoke Patil, A.P.P. for Respondent
No.20.

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CORAM: A.I.S. CHEEMA, J.

DATE : 15TH JULY, 2016

ORDER :

1. Heard counsel for the Petitioner. It is stated that there was marriage between the Petitioner and Respondent No.1. There were disputes between the couple and it is stated that

divorce proceedings were filed. Decree of divorce was passed, against which the Petitioner filed Appeal which is pending. According to the counsel for Petitioner, in the meanwhile Respondent No.1 entered into second marriage and against such second marriage, the Petitioner filed complaint before the J.M.F.C. Sakri under Section 494 and other Sections of I.P.C. It is stated that the J.M.F.C. earlier passed orders calling for further evidence and after considering the further evidence and after proper verification, issued process against the Respondents. The Respondents, instead of appearing before the Court of J.M.F.C., avoided the Summons and directly filed Revision to the Sessions Court. The Sessions Court vide ex-parte orders below Exhibit 4 dated 20th August 2015 stayed the further proceedings in R.C.C. No.91 of 2015 which had been filed by the present Petitioner.

. The counsel for Petitioner says that

against such order passed by the Sessions Court, the Petitioner filed Application Exhibit 7 seeking setting aside of the orders which had been passed on 20th August 2015. The Additional Sessions Judge, Dhule has after hearing parties by order dated 7th January 2016, rejected the application. According to the counsel, when the J.M.F.C. had, after taking all the necessary precautions taken steps and issued process, the Revisional Court could not have stayed the proceedings. It is stated that the Revision itself is not maintainable as it was against order of issue of process, which was interlocutory order.

2. Heard A.P.P. also. According to learned A.P.P., even against the orders of issue of process, Revision is maintainable as has been held in Judgments of this Court.

3. Going through the material available, what appears is that the Additional Sessions Judge

has, after hearing the Petitioner and counsel for Respondents in the Revision Petition, taken a decision not to set aside the stay which was granted by it vide orders below Exhibit 4 and observed that the question of jurisdiction for quashing and setting aside the order will be decided at the time of final decision. It appears that the concerned questions regarding jurisdiction are still open for the Petitioner to agitate before the Additional Sessions Judge. If at the interim stage in the Revision, the Revisional Court has stayed the proceedings of the trial Court, it will not be appropriate to further interfere in this Writ Petition to set aside the same. The questions of law being raised in this Court, can very well be raised before the Additional Sessions Judge, Dhule before whom Criminal Revision No.62 of 2015 is pending. The Additional Sessions Judge shall take suitable decision.

4. There is no reason to entertain this Writ Petition. However, looking to the disputes which have been raised, it would be appropriate to direct the Additional Sessions Judge to expedite hearing and decision of Criminal Revision No.62 of 2015.

5. Thus, the Writ Petition is rejected. However, the hearing and decision of Criminal Revision No.62 of 2015 before the Additional Sessions Judge, Dhule, is expedited.

[A.I.S.CHEEMA, J.]