

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CRIMINAL WRIT PETITION NO.411 OF 2016

Randhir S/o Nihal Singh and others

..VS..

State of Maharashtra, thr Inspector of Police, Police Station Ambazari, Nagpur and
anr

.....
 Office Notes, Office Memoranda of Coram,
 appearances, Court orders or directions
 and Registrar's orders

Court's or Judge's Order

Shri M.A. Qureshi, counsel for the petitioners.
 Shri S.D. Chande, counsel for respondent No.2.
 Shri J.Y. Gurdey, Addll.P.P. for respondent No.1/State.

CORAM : B.P. DHARMADHIKARI &
KUM. INDIRA K. JAIN, JJ.
DATED : DECEMBER 7, 2016.

Heard learned counsel Shri M.A. Qureshi for the petitioners, learned counsel Shri S.D. Chande for complainant-respondent No.2, and learned Additional Public Prosecutor Shri J.Y. Gurdey for respondent No.1/State.

The petitioners, who are relatives of husband-Lokesh Shripat Sogarwal, claim that marriage of Lokesh with complainant-respondent No.2 was already dissolved in Australia by competent Court. As such, Section 498A of the Indian Penal Code has no application. It is further submitted that complainant-respondent No.2 was always aware of status of husband-Lokesh as a male Nurse.

These facts are in dispute. complainant-respondent No.2 submits that husband-Lokesh had

procured only her signature on last page for processing VISA Application and other details were filled in by him. Hence, she is not aware of his status. It is further claimed that the alleged divorce by Australian Court is behind back of complainant-respondent No.2 and when husband-Lokesh was lodged in jail in Australia.

Learned counsel Shri M.A. Qureshi for the petitioners has attempted to invite our attention to the report of handwriting expert to urge that handwriting on VISA Application is of complainant-respondent No.2 only.

The contentions raised in the present petition may constitute a valid defence when the matter is taken up by the Trial Court. However, on the basis of such defence, the F.I.R. which *prima facie* makes out a case, cannot be set aside.

We clarify that observations made above are only for the purposes of this proceeding and shall not influence the Trial Court while considering the controversy.

Hence, keeping all rival contentions open and with liberty to the petitioners to take such other steps as are open to them in law, we dispose of the criminal writ petition. No costs.

JUDGE

JUDGE

!! BRW !!

C E R T I F I C A T E

I certify that this Order/Judgment uploaded is a true and correct copy of original signed Order.

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(Personal Assistant)

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