

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

CRIMINAL WRIT PETITION NO. 619 OF 2015

(SAU. SULAKSHNA ABHAYRAO DESHMUKH...VS..THE STATE OF MAH. THE PSO PS PUSAD CITY,
DIST. YAVATMAL & 14 OTH.)

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

Court's or Judge's orders

CORAM : Z.A.HAQ, J.

DATED : MARCH 03, 2016.

Heard Shri S.S.Chauhan, Advocate for the petitioner and Shri N.B.Jawade, A.P.P. for the respondent No.1.

2. The petitioner has filed complaint case against the State of Maharashtra and 24 persons alleging that she got married with original accused No.1-Abhayrao Prakashrao Deshmukh on 9th May, 2004, that after marriage she lived with her husband for about 1½ years and gave birth to Ku. Janhavi, that subsequently the original accused No.1 and respondent Nos. 2 to 6 started demand of Rs.3,00,000/- and as the demand was not fulfilled, accused No.1 refused to take the petitioner back to the matrimonial house. It is alleged that the accused No.1-Abhay has illegally married with the original accused No.2-Alka Abhayrao Deshmukh and both of them are living together as husband and wife and that the original accused Nos. 3 to 24 have actively participated in performance of second marriage of the accused No.1-Abhay with accused No.2. With these allegations, the petitioner prayed that the accused Nos. 1 and 2 be punished for the offences punishable under Sections 494 and 497 of the Indian Penal Code and the original accused Nos. 3 to 24 be punished

for the offence punishable under Section 109 of the Indian Penal Code.

3. The learned Magistrate recorded the statement of the complainant and by the order dated 6th December, 2007 directed issuance of process against the accused Nos. 1 and 2 for the offence punishable under Section 494 of the Indian Penal Code and against the accused Nos. 3, 4, 5, 7, 11, 12, 14 and 15 for the offence punishable under Section 109 of the Indian Penal Code.

The applicant (petitioner) filed application (Exh.119) praying that the process may be issued against the remaining 14 accused. The learned Magistrate, by the order dated 4th May, 2013 rejected the application, concluding that the order passed by the Magistrate on 6th December, 2007 was an interlocutory order and it cannot be reviewed.

4. The petitioner, being aggrieved by the order passed by the learned Magistrate on the application (Exh.119) filed revision under Section 397 of the Code of Criminal Procedure, which is dismissed by the learned Additional Sessions Judge by the order dated 6th August, 2014. The petitioner, being aggrieved by the above orders, has filed this petition.

5. The learned Magistrate while passing the order dated 6th December, 2007 has recorded that the petitioner has not placed sufficient evidence on record against the respondents Nos. 6, 8, 9, 10, 12, 16 and 24 and therefore, process has not been issued against them. This order was not challenged by the petitioner. The petitioner filed revision

application challenging the order passed by the learned Magistrate on 4th May, 2013. By the order dated 4th May, 2013, the learned Magistrate rejected the application (Exh.119) filed by the petitioner recording that the order passed on 4th June, 2007 cannot be reviewed.

6. In my view, the order passed by the learned Magistrate rejecting application (Exh.119) is proper and cannot be faulted with.

Apart from this, the learned Additional Sessions Judge has applied his mind independently to the material on record and has concluded that the evidence on record is not sufficient to issue process against the remaining accused/non-applicants. I do not find any patent illegality or perversity in the impugned order.

The writ petition is **dismissed**. In the circumstances, the parties to bear their own costs.

JUDGE