

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

Criminal Application [APL] No.926 of 2015

(Vinod Gulab Gawai

vs.

Sau. Aruna w/o Vinod Gawai and another)

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

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Court's or Judge's Orders

Shri S.V. Sirpurkar, Advocate for the Applicant.

Shri V.K. Paliwal, Advocate for the Non-Applicants.

CORAM : **S.B. SHUKRE, J.**

DATE : **5th JULY, 2016.**

Heard the learned Counsel for the applicant and the
learned Counsel for the non-applicants.

Upon going through the findings recorded by the
learned Magistrate, in particular the findings relating to failure
of the non-applicant to prove that she is the legally wedded wife
of the applicant, and also the finding recorded in that behalf by
the revisional court, I am of the view that the revisional court
has not committed any perversity or illegality in concluding that
the non-applicant has duly proved the fact that she is the legally
wedded wife of the applicant.

The learned Counsel for the applicant has submitted
that in exercise of revisional power under Section 397(3) of the
Code of Criminal Procedure, it is not open to the Sessions Court
to appreciate the evidence available on record and the Sessions
Court only has to consider whether any illegality or incorrectness

or impropriety has been committed while revising the order in question. There can be no doubt about with this proposition of law. But, on going through the orders impugned in this application, I find that the learned Additional Sessions Judge has corrected the perversity committed by the learned Judicial Magistrate in appreciating the evidence and considering the facts not borne out from the record of the case. The learned Magistrate, by way of imagination, has held that there is no Form "E" prescribed under the provisions of the Maharashtra Regulation of Marriage Bureaus and Registration of Marriages Act, 1998. However, the learned Additional Sessions Judge found that in exercise of the rule making power of the State Government under Section 19 of the said Act, the State has framed the Maharashtra Regulation of Marriage Bureaus and Registration of Marriages Rules, 1999 wherein Form "E" has been found to be appended to the rules. The learned Additional Sessions Judge has also considered the explanation given by the non-applicant as to why her marriage with the applicant was registered at Vivekanand Nagar (Hiwra Aashram) and not at Mehekar and found it to be plausible, which fact has not been at all considered by the learned Magistrate. Therefore, the findings recorded by the learned Additional Sessions Judge cannot be considered to be beyond his revisional jurisdiction.

Once it is found that the non-applicant was legally wedded wife of the applicant, the consequential findings recorded by the learned Additional Sessions Judge could also not be considered as illegal or improper. There is no scope for making any interference with the impugned order and the application deserves to be dismissed.

The application stands dismissed.

JUDGE

**sdw*