

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**Criminal Writ Petition No.212 of 2016
With
Criminal Application No.165 of 2017**

* Pankaj Madhukar Devale
@ Shashi Pankaj Madhukar,
Age 41 years,
Occupation : Social Activism,
R/. 21, Khandapur, Latur. .. **Petitioner.**

Versus

- 1) State of Maharashtra,
Through Shivaji Nagar Police
Station, Latur.
- 2) Dr. Vaishali Milind Devale,
Age 44 years,
Occupation: Physician,
R/o Flat No.5, Type 3
ESIC Hospital, Andheri (E),
MIDC, Mumbai.
- 3) Dr. Milind Madhukar Devale,
Age 44 years,
Occupation: Physician,
R/o Flat No.5, Type 3
ESIC Hospital, Andheri (E),
MIDC, Mumbai.
- 4) Shashikala Madhukar Devale,
Age 65 years,
Occupation: Homemaker,
R/o 19, Ramkrishnahari,
Swastik Colony,
Hivarkhed (Rup Rao)
Taluka Telhara, Dist Akola.

- 5) Madhukar Nagorao Devale,
Age 76 years,
Occupation: Retired,
R/o 19, Ramkrishnahari,
Swastik Colony,
Hivarkhed (Rup Rao)
Taluka Telhara, Dist Akola.
- 6) Versha Keshav Charhate,
Age 49 years, Occu: Service,
R/o 5 B, Sindhunagar,
Nigdi, Pune 411 044.
- 7) Savita Shiwaji Zampale,
@ Sawita Pankaj Deole,
Age 36 years,
R/o Onkar Niwas,
Near Dattamandir,
Sarweshvariya Colony,
Ausa Road, Latur.

.. Respondents.

Petitioner in person.

Shri. S.J. Salgare, Additional Public Prosecutor, for
respondent No.1.

Shri. V.B. Kale, Advocate, for respondent Nos.2 to 6.

CORAM: T.V. NALAWADE, J.

DATE : 19 JANUARY 2017

ORAL JUDGMENT:

1) The proceeding is filed only to challenge some observations made by learned Chief Judicial Magistrate Latur at para 21 of the judgment delivered in Regular Criminal Case No. 407/2011. Heard both the sides.

2) Police had filed case against present petitioner and others for offence punishable under section 498-A read with 34 of the Indian Penal Code. Charge was framed for this offence. Prosecution examined witnesses to prove the offence and the statement of the accused under section 313 of the Code of Criminal Procedure was recorded after adducing evidence by the prosecution. The trial Court has acquitted all the accused and while acquitting the accused at para 21 following observations are made :

"21. By this, this Court is not of the view that, the case is false and the accused persons are made to be arrested groundlessly."

3) Present petitioner, accused No.1 is feeling aggrieved due to the aforesaid observations. When criminal case is filed, as per the criminal law, offence needs to be proved beyond all reasonable doubt. If Court finds the material insufficient or the court finds that the material is not that convincing to prove the guilt beyond reasonable doubt, the Court gives benefit of these circumstances to the accused. When Criminal Court is

deciding the matter, the Criminal Court has also power to ask the complainant to give compensation if the Court comes to conclusion that false accusation was made. In any case, like the present one for offence punishable under section 498-A, IPC, when Court gives acquittal it is always necessary for the Court to make observation with regard to the accusations and if possible the Court can direct the complainant to give compensation. When there is no such case the Court can make such observations and avoid to give directions to give compensation against the first informant, wife. This Court does not find anything wrong in the aforesaid observations. It cannot be called as stricture against the accused and it is only observation made to avoid giving of directions to the complainant to pay compensation. There is no possibility of interference in the matter and there is of question of expunction as those are not the strictures against the accused. The petition is dismissed. Rule discharged. Criminal Application No.165/2017 stands rejected as there is no need to issue notice to the said respondent.

Sd/-
(T.V. NALAWADE, J.)

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