

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

CRIMINAL APPLICATION NO. 2716 OF 2014

Ashabai Shankar Wasnik .. Applicant

Versus

State of Maharashtra & Ors. .. Respondents

.....
Mr Shaikh Naseer, Advocate for the applicant
Mr K. S. Patil, APP for respondent/State
.....

**CORAM : VL. ACHLIYA, J.
DATED : 16.01.2017.**

PER COURT :

1. Heard learned counsel for the applicant and perused the impugned Judgment & Order.
2. The applicant had filed the complaint against the respondent-accused alleging therein that, during the subsistence of marriage between the applicant and accused No. 1, the accused No. 1 has contracted a marriage with accused No. 2. The marriage between the accused Nos. 1 and 2 was also registered with the office of Registrar of Marriage. In order to prove the case, the complainant has examined herself and also examined the Registrar of Marriage. On conclusion of trial, the learned Magistrate has convicted the accused No. 1. As against the Judgment & Order of conviction, the accused had preferred an Appeal before the Sessions Court, Jalgaon. Learned Addl. Sessions Judge has allowed the appeal and set aside the order passed by the trial Court.

3. Learned counsel for the applicant has pointed out that, the learned Sessions Judge has observed in the impugned Judgment & Order that the complainant has failed to prove the marriage between the accused Nos. 1 and 2 though the complainant has examined the Registrar of Marriage and proved the marriage between the accused Nos. 1 and 2 during the subsistence of marriage between the complainant and the accused No. 1.

4. Having regard to the submissions advanced and further taken into consideration that there are conflicting findings on facts recorded by the trial Court and Sessions Court, I am of the view that arguable case has been made out to entertain the appeal.

5. Accordingly, leave u/s 378(4) of the Code of Criminal procedure is granted. Appeal be registered.

6. Criminal Appeal is **admitted**.

7. Call for Record & Proceedings with Paper book.

8. Issue notice of appeal to respondents, returnable within eight weeks.

9. Stand over to 14.03.2017.

[V. L. ACHLIYA]
JUDGE