

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

Cr. Writ Petition NO. 4823 OF 2017

Deepak Laxminarayan Verma

...Petitioner

Versus

The State Of Maharashtra And Anr

...Respondents

Mr.S.K.Chaurasia, for the Petitioner.

Mr.Prakash Dhopatkar with Mr.Santosh Vhatkar i/b. Santosh Vhatkar and Associates, for Respondent No.2.

CORAM : G. S. KULKARNI, J.

DATE : DECEMBER 11, 2017

P.C.:

Heard the learned Counsel appearing for the parties.

2. This petition impugns the order dated 7 November 2017 passed by the learned Judge, Family Court at Mumbai, rejecting the application as filed by the petitioner, to permit him to allow three witnesses to be examined in the proceedings under Section 125 of the Code of Criminal Procedure. The basis of the application is that prior to the marriage of respondent no.2 with the petitioner, respondent no.2-wife was informed about the petitioner's failed marriage, not dissolved as per law. On this contention, the petitioner wants to examine three witnesses. The learned Judge of the Family Court by the impugned order has observed that the proceedings under Section 125 of the Code of Criminal Procedure as filed on behalf of the respondent-wife are of summary nature and the

contention being urged to examine the three witnesses in regard to the issue of prior marriage of the petitioner would not be relevant in the adjudication of the respondent's Section 125 application. In the impugned order the learned Judge of the Family Court has also observed that admittedly there are proceedings under Section 494 of the Indian Penal Code as filed against the petitioner. It is observed that thus the prior marriage of the petitioner cannot be an issue in the proceedings under Section 125 of the Cr.P.C.

3. Learned Counsel for the respondent-wife submits that the application of the respondent under Section 125 of Cr.P.C. is filed in the year 2012, the parties are already heard on the application under Section 125, written arguments are also filed on behalf of respondent-wife. It is thus submitted that the application as filed on behalf of the petitioner to examine three witnesses is nothing but an attempt on behalf of the petitioner to delay the proceedings.

4. Having heard the learned Counsel for the parties as also having perused the impugned order, the petitioner's application in question and the other documents as placed on record, I find substance in the contention urged on behalf of the respondent-wife. Perusal of the impugned order does not indicate any perversity in rejection of the request

of the petitioner that too on the ground of prior marriage of the petitioner, even considering the provisions of Section 125(5) of the Cr.P.C.

5. The petition is devoid of merits. It is accordingly rejected. No costs.

(G.S. KULKARNI, J.)