

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO. 2284 OF 2017

1. Dilip Chintaman Khare,
Age : 38, Occ: Military Service,
R/o. Vasmar, Taluka Sakri,
District Dhule.
2. Pradnya Dilip Khare,
@ Pradnya d/o Prabhakar Dhoke,
Age: 24, Occ: Household,
R/o: Umari Itbarpur,
Post Umari Mamdabad,
Daryapur, Amrabati.
3. Bhaskar Chintaman Khare,
Age: 41, Occ: Service,
R/o. Tala, Taluka Tala,
District Raigad.
4. Pushpabai @ Amrapali Bhaskar Khare,
Age: 33, Occ: Household,
R/o. Tala, Taluka Tala,
District Raigad.
5. Vimalbai Chintaman Khare,
Age: 63, Occ: Household,
R/o: Vasmar, Taluka Sakri,
District Dhule.
6. Vilas Harichandra Borge,
Age: 46, Occ: Labour.
7. Rekhabei Vilas Borge,
Age: 39, Occ: Household.
8. Jaya @ Jayashri d/o Vilas Borge,
Age 21, Odd: Education,

7 to 9 R/o: Panchashil Nagar,
Malegaon, District Nasik.

... **APPLICANTS**

VERSUS

- 1 The State of Maharashtra.
- 2 Vandana Dilip Khare,
Age: 32 years, Occ: Household,
R/o. Plot No.31(b),
Yashwant Nagar, Sakri Road,
Dhule, District Dhule.

... **RESPONDENTS**

...
Mr. Amit S. Savale, Advocate for Applicants.
Mr. M. M. Nerlikar, APP for Respondent No.1.
Ms. Monika Dhat, Advocate for Respondent No.2.
...

CORAM : **T. V. NALAWADE &
K. L. WADANE, JJ.**

DATE : 11th June, 2018.

JUDGMENT: (Per T. V. Nalawade, J.)

. Rule. Rule made returnable forthwith. Heard both the
sides by consent for final disposal.

2 The proceeding is filed under Section 482 of the Code of
Criminal Procedure for the relief of quashing of FIR No.24 of 2017
registered with Sakri Police Station, Taluka Sakri, District Dhule for

the offences punishable under Sections 494, 418, 419 and 504 read with 34 of the Indian Penal Code.

3 Both the sides are heard.

4 Respondent No.2 of the present proceedings, Vandana, is the wife of Applicant No.1 Dilip. Their marriage took place on 16th May, 2004. It is the case of first informant that her marriage with Dilip was the first marriage of Dilip. The contentions of the first informant show that there was some dispute and there was harassment to the first informant and after that she was driven out of the matrimonial house in June, 2013. She gave report to the police and crime was registered for the offence punishable under Section 498-A of the Indian Penal Code in the year 2013.

5 It is the case of the first informant that Applicant No.1 has married second wife and one Pradnya is the second wife of Applicant No.1. The other Applicants are close relatives and friends of Applicant No.1 and they are 15 in number. It is the case that after the second marriage, second wife gave birth to one son and the incident of birth came to be registered in the register of local body on 20th

December, 2015. It is her case that by marrying second time, the husband has deceived her and other Accused who are the relatives of husband and the relatives of second wife, have helped the husband for second marriage.

6 The learned counsel for Applicants took this Court through the provisions of Section 198 (c) of the Code of Criminal Procedure. This provision shows that when the offence of bigamy is committed, the procedure under this provision needs to be followed and cognizance of the offence can be taken only on private complaint filed by the parties mentioned in this provision. When there is second marriage, the first wife cannot say that by marrying second time, her husband has deceived her. The act of the husband of marrying second time cannot make out the offence under Sections 418 and 419 of the Indian Penal Code. Similarly, the allegations made in the FIR do not make out the offence punishable under Section 405 of the Indian Penal Code. It is clear that only to make it a police case, the first informant added these provisions in the FIR and it can be said that it was not proper on the part of police to register the crime for the offences other than Section 494 of the Indian Penal Code. If the

proceedings are allowed to continue and investigating agency is allowed to file the charge-sheet for the aforesaid offence, it will be abuse of process of law and further such proceedings can be of no use to the first informant. It is desirable for the first informant to follow the procedure given in Section 198 of the Code of Criminal Procedure. This Court holds that the proceeding needs to be allowed. In the result, the following order is passed:

ORDER

- I. The application is allowed.
- II. FIR No.24 of 2017 registered with Sakri Police Station, Taluka Sakri, District Dhule, is hereby quashed and set aside. However, it is made clear that there will be liberty to file private complaint for the offence of bigamy to the first informant.
- III. Rule made absolute in those terms.

[K. L. WADANE, J.]

[T. V. NALAWADE, J.]