

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.56 OF 2016
IN
CRIMINAL REVISION APPLICATION (ST.) NO.62 OF 2016

Chhaya Avinash Shinde ... Applicant
Vs.
Avinash Annaram Shinde and another ... Respondents

Mr. G. M. Savagave for Applicant.
Mr. Abhijeet J. Kandarkar i/b. Mr. G. T. Kanchanpurkar for Respondent No.1.

CORAM : R. G. KETKAR, J.
DATE : JUNE 14, 2018

P.C. :

Heard Mr. Savagave, learned Counsel for the applicant and Mr. Kandarkar, learned Counsel for the respondent No.1.

2. This is an application for condonation of delay of 4 years and 3 days in filing the Criminal Revision Application. For the reasons stated in paragraphs 4 and 5 of the Application, I am satisfied that applicant has made out sufficient cause for condoning the delay. Hence, Criminal Application is allowed in terms of prayer clause (a) with no order as to costs.

3. At the joint request of the learned Counsel for the parties, Criminal Revision Application is taken up for admission.

4. By this Revision Application under Section 397 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.'), the applicant has challenged the judgment and order dated 20.10.2011 passed by the learned Judge, Family Court, Nashik in E-Petition No.200 of 2010. By that order, the learned trial Judge rejected the application made by the petitioner under Section 125 of Cr.P.C. claiming monthly maintenance.

5. In support of this Application, Mr. Savagave strenuously contended that the learned trial Judge committed error in holding that applicant has not established that she had obtained divorce from her first husband Vasant Pawar. He submitted that in fact respondent No.1 did not adduce any evidence despite giving opportunity. The matter proceeded against the respondent No.1 without evidence. The learned trial Judge was, therefore, not justified in rejecting the application by holding that applicant is not a lawfully wedded wife of the first respondent. He submitted that the learned trial Judge did not consider the photographs produced by the applicant to substantiate her claim to the effect that petitioner and respondent are residing together as husband and wife.

6. On the other hand, Mr. Kandarkar supported the impugned order.

7. I have considered the rival submissions advanced by the learned Counsel appearing for the parties. I have also perused the material on record. It is not in dispute that applicant was previously married to one Vasant Pawar. A perusal of paragraph 15 of the impugned order shows that in her affidavit in examination in chief, applicant claimed that she had obtained divorce from Vasant Pawar 10 years back and thereafter marriage was solemnized between her and the respondent No.1. However, in cross-examination, applicant admitted that she has not produced any documentary evidence to substantiate divorce obtained by her from Vasant Pawar. For the reasons recorded in paragraphs 15 to 17, I do not find that the learned trial Judge has committed any error in holding that applicant failed to establish that she is legally wedded wife of the respondent No.1. Hence, no case is made out for interfering with the impugned order. Hence, Criminal Revision Application fails and the same is dismissed.

(R. G. KETKAR, J.)