

*Nalawade*FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 227 OF 2011
Tanveer Ahmed Aadam Khan vs. State of Maharashtra and ors.

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. V.V. Pethe for the Applicant.

Mr. Vikas Shivarkar for Respondent Nos. 1 and 2.

Mr. V.V.Gangurde,APP. for State.

CORAM :A.S.GADKARI, J.

DATE : 3rd April, 2018

P.C.

1. This is an application under Section 378(4) of the Cr.P.C. for leave to file appeal against the Judgment and Order dated 16.7.2009 passed by the learned Judicial Magistrate First Class, Court No.1, Pune, District Pune in Regular Criminal Case No. 134 of 2002 thereby acquitting respondent Nos.2 and 3 for an offence punishable under Sections- 493, 494, 497 read with 34 of the Indian Penal Code.

2. Heard the learned counsel for the applicant and the learned counsel for respondent Nos. 2 and 3. Perused the record.

3. At the out set, it is to be noted here that, as per the submissions made by the learned counsel for the respondents, the respondent No.3 Vaseem Khan has expired.

4. The applicant was the husband of respondent No.2 Smt. Nafisa Tanveer. As the respondent No.2 had deserted the applicant he had filed proceedings for restitution of conjugal rights before the Family Court No.3 at Pune. That, in the said proceedings respondent No. 2 in her cross-examination had given admission stating that, she was living with Vaseem Khan i.e .respondent No.3 herein and respondent No.3 was her husband. That, the son- Zaki has begotten from the relationship with Vaseem. On the basis of the said admission given by respondent No.2 Nafisa, the applicant had filed the present complaint under Sections 493, 494 and 497 read with 34 of the Indian Penal Code against the respondent Nos.2 to 4 which has resulted into acquittal of the said respondents by the impugned Judgment and Order.

5. A minute perusal of the evidence on record would clearly indicate that, the applicant has failed to prove the basic fact that respondent No.2 Nafisa had in fact married with Vaseem Khan. The applicant has neither produced any documentary evidence to that effect nor examined any religious head i.e. 'Imam' who performed the said marriage. The evidence further indicates that, the applicant in his cross examination has admitted the fact that, as per the Islam religion, at the time of marriage one

'Imam' and three other witnesses are necessary however, the applicant has failed to adduce any sufficient and cogent evidence in that behalf in support of his contention.

6. After perusing the entire record, this Court is of the opinion that, the view adopted by the Trial Court is a reasonable and probable view in the facts and circumstances of the present case.

No case for grant of leave to file appeal is made out.

7. Application is accordingly rejected.

(A.S.GADKARI, J.)