

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APL) 190 OF 2018

(Dharmdeep s/o. Udaybhan Walde..vs.. Mrs. Rajanmi w/o.Dharmdeep Walde & anr)

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.*

Court's or Judge's orders.

Shri A.S. Bhendarkar, counsel for the applicant.
Shri S.A. Bramhe, counsel for the respondent.

CORAM: ROHIT B. DEO, J.

DATE: 19th June, 2018.

Heard.

2 The applicant is facing trial under section 498-A read with section 34 of the Indian Penal Code.

3 During the cross examination of the complainant – wife, the counsel for the applicant invited her attention to a particular statement in the First Information Report and she was asked to explain whether the same statement was given to the police when her 161 statement was recorded, obviously subsequent to the First Information Report.

4 The learned Magistrate has observed, and rightly so, that both First Information Report and the 161 statement have to be read holistically. The paragraph which was put by the learned counsel appearing on behalf of the accused to the complainant – wife is concededly a part of the First Information Report. Whether such a statement is repeated by the complainant in her 161 statement recorded subsequent to the lodging of the First Information Report and the effect, if at all, of such omission is something which

can be argued. However, every omission is not a contradiction. Even if it is assumed that something which was disclosed in the First Information Report was not so disclosed in the subsequent 161 statement, the omission may not be a contradiction at all. The statement having been disclosed in earliest point of time in the First Information Report, the omission to give a statement on similar lines to the police may not be of much significance or relevance. Be that as it may, it is not appropriate for this Court to make any final observation and it is left to the learned trial Court to appreciate and consider the significance of the omission in the 161 statement in the light of the fact that such statement was indeed made at the earliest point in time while lodging the First Information Report. Nothing is demonstrated for this Court to invoke inherent powers. The application is rejected.

5 The trial is of 2013. The learned Magistrate is requested to conclude the trial expeditiously and in any event within six months from the date of this order.

6 Steno copy granted.

JUDGE