

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.2495 OF 2018**

Smt.Priyanka Atul Mishra

... Petitioner

Vs.

Shri Atul Lalmohan Mishra & Ors.

... Respondents

Mr.M.J. Bhatt for the Petitioner

Mr.S.S. Pednekar, APP, for the Respondent – State

**CORAM: Mrs.MRIDULA BHATKAR, J.
DATED: FEBRUARY 12, 2019**

P.C.:

1. This Writ Petition is directed against the order dated 12.4.2018 passed by the learned Sessions Judge, Thane in Criminal Appeal No.246 of 2014 rejecting the application filed for leading additional evidence in appeal filed under section 391 of the Criminal Procedure Code. The petitioner/appellant is the original complainant who has filed a criminal case against the respondent/original accused under sections 494 and 498A of the Indian Penal Code. The respondents/accused are acquitted from all the charges by the learned Judge against which the Criminal Appeal No.246 of 2014 was filed by the original complainant i.e., the petitioner. The application was moved under section 391 of the Criminal Procedure Code that the original complainant be allowed

to lead evidence of photocopy of the voters' list wherein the two names i.e., of the respondent/original accused and his second wife are mentioned. The said application was rejected by the learned Sessions Judge and hence, this Writ Petition.

2. The learned Counsel for the petitioner has submitted that if at all the petitioner is allowed to lead evidence of the said voters' list then, she will be in a position to prove the fact of second marriage. He further submitted that this will enable the petitioner to lead evidence of second marriage by calling the concerned witnesses.

3. Perused the order passed by the learned Sessions Judge; considered the nature of offence and the evidence which the petitioner intends to lead. In view of section 494 of the Indian Penal Code, strict proof of second marriage is required. Hence, only photocopy of the voters' list cannot be considered to be a relevant evidence on this point. The reasoning given by the learned Sessions Judge is found correct and legal. No interference is required. The petition is summarily dismissed.

(MRIDULA BHATKAR, J.)