

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1475 OF 2019

1. Gajanan S/o Santosh Bhalerao,
Age : 32 Years, Occu. Service
2. Santosh Namdev Bhalerao,
Age : 60 Years, Occu. Labour,
3. Kevalbai Santosh Bhalerao,
Age : 57 Years, Occu. Labour
4. Umakant Santosh Bhalerao,
Age : 33 Years, Occu. Labour,

All Resident of Malpur, Taluka
Shindkheda, Dist. Dhule.

...APPLICANTS

VERSUS

1. The State of Maharashtra,
Through The P.I. Chopda Rural Police
Station, Tq. Chopda, Dist. Jalgaon
2. Girija @ Ashwini Gajanan Bhalerao,
Age : 25 Years, Occu. Service,
R/o. Majre Hingone Tq. Chopda,
Dist. Jalgaon

..RESPONDENTS

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Advocate for the Applicants : Mr. A.S.Sawant
A.P.P for Respondent-State : Mrs. D.S. Jape
Advocate for respondent No.2 : Mr. D.D.Choudhari

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**CORAM : T.V. NALWADE &
M.G.SWELIKAR, JJ.**
DATE : 09-01-2020.

JUDGMENT (PER T.V. NALWADE,J) :-

Rule. Rule made returnable forthwith. By consent heard both the sides for final disposal.

2. The present proceeding is filed for relief of quashing of FIR No. 12/2019 registered with Chopda Rural Police Station, District Jalgaon. The offence was registered under section 418 and 420 of the Indian Penal Code. Now the charge sheet is filed in the said crime and the case is given number as Regular Criminal Case No. 91 of 2019 and it is pending in the Court of learned Judicial Magistrate (F.C.) Chopda. Relief is claimed for quashment of the case itself also.

3. The crime was registered on the basis of report given by respondent No.2. Accused No.1 is son of accused Nos. 2 and 3 and accused No.4 is brother of accused No.1. Accused No.1 was serving in Gulf country and his marriage was to be settled with a girl from India. Accused No.2 Santosh, the father of accused No.1 was searching for proper bride and he came in contact with the family of the informant. On 04.04.2018, in the meeting, the informant was approved for the marriage. After that, accused no.1 had talked with informant on video call and they were in contact with each other. Engagement ceremony took place on 13.05.2018 and mother of the

informant spent money for that ceremony. Gajanan, the bridegroom had attended that ceremony.

4. It was represented by Gajanan that it was necessary to have registered marriage and if there is such marriage, he can obtain pass-port and visa for his service purpose immediately. Procedure was then followed for having registered marriage and then on 19.06.2018, in the office of the Registrar of Marriage Jalgaon, the marriage took place and certificate of registration of the marriage was issued. Even after marriage, the informant continued to live with her parents. After one month of the marriage, when mother of the informant made enquiry as to why further steps were not taken, it was informed by father of the husband that they wanted to see that marriage was performed as per *vaidik* ceremony also. It was informed that Hall for marriage was not available and so the marriage was scheduled to be performed in the month of November 2018. The husband could not get leave from the place of his service and so marriage date was postponed. During this time, the applicant No.1 remained in contact with the informant on phone and he used to make video calls. The next date was fixed for *vaidik* marriage as 24.02.2019, but on 02.02.2019, when husband called informant on phone, he

picked up quarrel with the informant and said that he was braking the relationship and it can be treated that he has given divorce. This incident was informed to the relatives of the husband, but the relatives of the husband gave evasive answers. The informant and her family realized that side of husband was not taking expected steps and report came to be given.

5. The photo copy of the certificate of the registration of the marriage, issued under Special Marriage Act, 1954 is produced on record. The aforesaid contentions made in the FIR also show that the informant is admitting that necessary ceremony took place before the Registrar of the Marriage and then certificate of registration came to be issued. As the marriage took place under the provisions of Special Marriage Act, 1954, the provisions of this Act like section 13(2) will be considered by the Court for ascertaining as to whether there was marriage or not. It was submitted by the learned counsel of the informant that it was not properly solemnized marriage and the bride is thinking that she has been deceived by the applicants.

6. The applicants are not disputing that there was marriage

and informant is also not disputing that there was the marriage of aforesaid nature. In view of these circumstances, it cannot be said that the informant is deceived by the husband or his relatives. It can be said that there is grievance of the informant that she was not taken to matrimonial house for cohabitation. That circumstances can not make out offences punishable under Sections 420, 418 of the Indian Penal Code. In view of these circumstances, this Court holds that it will be abuse of process of law and nothing can be achieved if the applicants are made to face the trial for the aforesaid offences. In the result, following order :-

ORDER

1. application is allowed.
2. Relief is granted to them in terms of prayer clause A and AA.
3. Rule made absolute in those terms.

**(M.G.SWELIKAR)
JUDGE**

**[T.V. NALAWADE]
JUDGE**

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