

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL WRIT PETITION NO.70 OF 2020

PURUSHOTTAM RAMRAO DESHMUKH

PETITIONER

V E R S U S

VIDYA PURUSHOTTAM DESHMUKH
AND OTHERS

RESPONDENTS

...
Advocate for Petitioner : Mr. Vijay B. Patil
Advocate for Respondent No.1 : Mr. Samir V. Nigam
APP for Respondent No.2 – State : Mr. R. B. Bagul
...

CORAM : N.R. BORKAR, J.
DATE : 26.10.2021

PER COURT :-

This Writ Petition takes an exception to order dated 15-11-2019 passed by the learned Additional Sessions Judge, Jalgaon, in Criminal Revision Application No. 3 of 2018.

2. Respondent No. 1 herein has filed a complaint case against the present petitioner and respondents No. 3 to 15, for the offences punishable under Sections 494, 420 read with Section 34 of the Indian Penal Code (IPC).

3. The learned Judicial Magistrate, First Class, Pachora, by order dated 11-12-2017, issued the process against the present petitioner and respondent Nos. 3 to 15, for the offences punishable under Section 494 read with Section 34 of the IPC. The revision

petition was filed against the said order of issuance of process before the learned Sessions Court, however, the same is dismissed by the order impugned.

4. According to the respondent No.1, during the subsistence of her marriage with the petitioner, he performed second marriage with respondent No.3. It appears that, before issuance of process, the report was called from the concerned Police Station, under Section 202 of the Code of Criminal Procedure. The police report supports the case of the respondent No.1. Considering these facts, I am not inclined to quash the order of issuance of process against the present petitioner for the offence punishable under Section 494 of the Indian Penal Code.

5. However, during the course of hearing, it transpired that respondent Nos. 3 to 15 cannot be tried with the aid of section 34 of the Indian Penal Code as there arises no question of sharing of common intention by the respondent Nos. 3 to 15 with the petitioner for offence alleged against him. Therefore, order of issuance of process against the respondent Nos. 3 to 15 i.e. accused Nos. 2 to 14 before the trial Court is quashed and set-aside. However, this will not preclude, the trial Court from issuing the process against the respondent Nos. 3 to 15 for the

offence if any committed by them on the basis of role attributed to them in the alleged crime.

6. Considering the nature of the offence, the trial Court shall endeavour to decide the matter Regular Criminal Case No. 34 of 2014, as early as possible, and in any case, within one year from the date of receipt of copy of this order.

7. The Writ Petition is disposed of in aforesaid terms.

(N. R. BORKAR)
JUDGE

ysk