

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

CRIMINAL APPLICATION [APL] NO. 1307/2022.

Anand Ramesh Bobade and others.

-VERSUS-

Nikita Anand Bobade

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri H.M. Bobade, Advocate for Applicants.

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CORAM: VINAY JOSHI, J.

DATE : SEPTEMBER 30, 2022.

Heard.

2. The applicant is an accused in Criminal case bearing No.4208/2021 for the offence punishable under Section 406 read with Section 34 of the Indian Penal Code and Section 6 of the Dowry Prohibition Act, 1961. After commencement of evidence in the private complaint, the non-applicant [original complainant] has filed an application – Exh.5, seeking for issuance of search warrant in respect of house of applicants in terms of Section 94 of the Code of

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Criminal Procedure.

3. On receipt of said application, the learned Trial Court called upon applicants [accused] by way of issuing notice to file their response. The said action of learned Magistrate of issuance of show cause notice is the subject matter of challenge in this application.

4. It is argued that issuance of search warrant for search of cash amount, ornaments and phone which was allegedly part of dowry/gift offered in the marriage is not permissible.

5. The learned Counsel for applicants would submit that having regard to the nature of application, provisions of Section 94 of the Code would not apply. He has pointed out that the search warrant under Section 94 of the Code is permissible in respect of seizure of stolen property, forged documents or things which have been specified in sub-section [2] of Section 94 of the Code. As a matter of fact, on receipt of application, the Magistrate has reasonably called other side by issuing notice. It is submitted that applicants [accused] have filed their reply, and now the application – Exh.5, seeking search warrant under Section 94 is for

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arguments. Thus, at present nothing is adverse against applicants.

6. Having regard to the nature of limited controversy, I do not deem it necessary to hear other side. The purpose would suffice if some protection is granted to applicants by directing the Magistrate to decide the application in accordance with law.

7. In view of above, the learned trial Court is directed to decide application Exh.5, in accordance with law. If any adverse order is passed against applicants [accused], no effect to the same shall be given for a period of 15 days from the date of passing of such order.

8. Criminal Application is disposed of in above terms.

JUDGE