

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

32 CRIMINAL WRIT PETITION NO.185 OF 2022

**SHEETALBEN NITIN RAJPUT AND ANOTHER
VERSUS
NITIN KEDARSING RAJPUT**

Mr. Siddhan P. Sirsat, Advocate h/f Mr. N. L. Chaudhary,
Advocate for the petitioners
Mr. Mangesh G. Patil, Advocate h/f Mr. Anudeep D. Sonar,
Advocate for the respondent

CORAM : KISHORE C. SANT, J.

DATE : 28th FEBRUARY, 2023

P. C.

1. Heard the learned advocates for the parties.
2. The learned JMFC, Dhule issued process by order dated 10-12-2020 against petitioner No.1 for the offences punishable under Sections 494 & 420 of the IPC and petitioner No.2 for the offences punishable under Section 420 of the IPC. The learned JMFC, Dhule in the same order refused to issue process against respondent Nos. 3 to 8 in the Cri. M. A. No.189/2020.
3. The petitioner No.1 is the wife of the complainant and petitioner No.2 is her second husband. It is submitted by the

learned advocate for the petitioners that there was already a Deed of Divorce dated 09-05-2016. It is alleged that there was a declaration that marriage between the complainant and petitioner No.1-wife is dissolved. Therefore, it is submitted that the marriage with petitioner No.2 cannot be said to be a marriage during the subsistence of earlier marriage which is allegedly taken place on 23-11-2018. It is therefore, submitted that Section 494 is not attracted.

4. Learned advocate for the respondent vehemently opposed the petition submitting that earlier marriage is not dissolved by operation of law. The alleged Dissolution Deed is not recognized by law and therefore, the learned court has rightly issued process against the petitioners.

5. However, it is a matter of record that parties have not obtained divorce by following due process of law and there is no any decree of divorce. Under such circumstances the submission that there was a divorce prior to second marriage cannot be accepted. In this view of the matter, this court finds that no case is made out for calling interference in the matter. Therefore, the criminal writ petition stands dismissed and disposed off.

[KISHORE C. SANT, J.]