

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

916 CRIMINAL APPLICATION NO.1342 OF 2023

**JOGINDARSINGH NARENDRASINGH CHOUHAN
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS**

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Advocate for Applicant : Mr. Vishwajeet Ramesh Jain
APP for Respondent – State : Mrs. G.L. Deshpande
Advocate for Respondent No.2 : Mr. T.G. Gaikwad
Advocate for Respondents No.3 to 7 : Mr. R.N. Chavan

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**CORAM : R. M. JOSHI, J.
DATE : SEPTEMBER 14, 2023**

PER COURT :

. This application is filed under Section 482 of the Code of Criminal Procedure challenging the order dated 18.01.2021 passed by Judicial Magistrate First Class, Beed in Criminal Misc. Application No. 1110 of 2018 for the offences punishable under Sections 420, 500 r/w. 34 of the Indian Penal Code.

2. The applicant is the person who alleged to have performed marriage of daughter of the complainant with one of the co-accused. In the complaint it is alleged that the accused persons abducted the daughter of the complainant and without his consent her marriage was performed. He further claims that because of that

he is defamed in the society. It is further allegation that engagement of his daughter was performed with another person and in spite of knowledge of this fact the accused persons committed breach of trust of the complainant.

3. Learned counsel for the applicant states that even if it is accepted that the applicant has performed the marriage of the daughter of the complainant with co-accused, that does not become offence as alleged against him. It is his submission that the learned Trial Court without appreciating the averments in the complaint has mechanically issued process which is not sustainable in law.

4. Learned counsel for the complainant submitted that there are allegations against all accused persons that they abducted complainant's daughter and her marriage was performed with co-accused.

5. For the purpose of issuance of process, the learned Trial Court ought to have satisfied himself about *prima facie* offence is made out against the applicant under Section 420 and 500 of the Indian Penal Code. There is no averment in the complaint that the

complainant had acquaintance with the present applicant. There is further nothing to indicate that the essential ingredients to constitute cheating as contemplated by Section 415 of the IPC are satisfied. Similarly, it cannot be said that because of the marriage performed of the major woman by her choice with another person amounts to defamation of the complainant. The learned Trial Court not applied its mind to the facts of the case. The order of issuance of process against the applicant therefore cannot sustain and is liable to be quashed and set aside. Hence, the following order.

ORDER

- (i) Criminal Application is allowed.
- (ii) The impugned order dated 18.01.2021 passed by Judicial Magistrate First Class, Beed in Criminal Misc. Application No. 1110 of 2018 stands quashed and set aside.

[R. M. JOSHI]
JUDGE

GGP