

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

36 CRIMINAL WRIT PETITION NO. 613 OF 2022

**DNYANESHWAR BHAURAO PATIL
VS
STATE OF MAHARASHTRA AND OTHERS**

Mrs. Rashmi S. Kulkarni, Advocate for the petitioner
Mr. S. R. Yadav-Lonikar, APP for the respondents/State
Mr. S. B. Chavan, Advocate for respondent No.2 (appointed)

CORAM : KISHORE C. SANT, J.

RESERVED ON : 09th FEBRUARY, 2023

PRONOUNCED ON : 20th MARCH, 2023

P. C.

1. Heard the learned advocate for the parties. The matter is taken up for final disposal by consent of the parties.

2. This petition is arising out of the proceeding under Section 125 of the Code of Criminal Procedure (Hereinafter referred to as 'the Cr. P. C.'). A prayer in the petition is for quashing of the proceedings filed by respondent for maintenance.

3. Respondent No.2 filed the proceeding under Section 125 of the Cr. P. C. in the court of JMFC, Sillod. In the application it is stated that she came in contact with the petitioner for purchase of a plot. He took her to various places under pretext of showing plots. On one such occasion the petitioner took her in his car and established physical relation. Then it is alleged that thereafter the marriage took place on 25-12-2018 and they both stayed together for some time. The petitioner used to pay her Rs.25,000/- for some period. However, after some days he left the company and thereafter, she realized that she was deceived. She went to lodge a complaint against the petitioner. However, police did not take her complaint. She thereafter lodged proceeding and prayed for Rs.25,000/- per month towards maintenance.

4. The petitioner on receiving summons was shocked as he had never seen this respondent No.2 nor he had any contact with her. The petitioner is resident of Jalgaon whereas the respondent No.2 is resident of Sillod. The petitioner thereafter

made an inquiry in the court at Sillod, he was further shocked to know that the respondent has filed one more application under Section 125 of the Cr. P. C. against one Anil Goleccha wherein similar allegations were made. He suspected that the same lady has filed Criminal Misc. Application No. 200/2019 posing herself as Latabai Goleccha. It further revealed that one more Criminal Misc. Application No.399/2019 by name Jaya Kailas Khandelwal was filed against one Kailas Khandelwal wherein again far fetched & apparently false stroes were made as stated in the application. One Criminal Misc. Application No.338/2021 was also filed by lady by name Kavita Anil Chatalwar against one Anil Chatalwar wherein story clearly appears to be only out of imagination. In Cri. Misc. Application No.200/2019 and 399/2019 the respondents therein settled the matter out of the court and in that view proceeding under Section 125 were withdrawn. In all these applications common story is that under some pretext respondent No.2 came in contact with the respondents and she was made to keep physical relation and thereafter the marriage was performed. Further, common thing

in all the applications is that those are filed through the the same advocates.

5. In the Criminal Misc. Application No. 684/2019 and 200/2019 signatures as Latabai appear to be similar whereas in the case of Jaya Khandelwal and Kavita Chatalwar those appear to be different. But since all these proceedings are filed through same advocate this petitioner suspected that there is syndicate involved which blackmails persons having prestige in the society and make them to settle the matter out of the court. The petitioner has placed on record copies of these criminal misc. applications and pursis and orders of withdrawal passed by the court.

6. This court on all these allegations, issued notice to the respondents. The respondent in spite of service, initially did not appear before the court. This court therefore appointed an advocate for her through legal aid. The court looking in to the allegations and comparing the signatures in the Criminal Misc.

Application Nos. 684/2019 and 200/2019 prima-facie formed an opinion that signatures are similar and therefore had passed an order dated 18-11-2022 taking serious cognizance of the allegations. The learned advocate appointed through legal aid submitted that though he tried to contact respondent No. 2 on mobile, there was no response from respondent No.2 and she did not come to file any affidavit. This court, therefore called report from the police machinery by making inquiry about allegations made in the petition. On 14-12-2022 this court again called the police report since it was not submitted. The learned APP was requested to get specific instructions from the police. On that day this court recorded that respondent did not give instruction to the advocate appointed by this court. It is informed by the learned advocate that on 07-12-2022 in the evening respondent No.2 and her advocate in the trial court even threatened him that they would file complaint against the advocate appointed by this court. Earlier advocate engaged by this court had gave a letter dated 08-12-2022 to the High Court Legal Services Sub- Committee, Aurangabad informing that he

was threatened by respondent No.2 and her advocate and therefore, he prayed for discharge.

7. On 04-01-2023 when the matter was on board another advocate came to be appointed to represent respondent No. 2.

8. The respondent No.2 thereafter filed an affidavit-in-reply and denied the allegations however surprisingly she stated in the affidavit that she has no objection to quash the proceeding under Section 125 before the learned JMFC, Sillod. It is also stated that her name is Latabai Bhimsing Jadhav. She submitted that she has not signed the proceeding in the court at Sillod. She also stated proceeding is not connected with the deponent/respondent No.2. She stated that she stays in the family with her husband Bhimsing with her two sons and one daughter. She specifically denied that she has filed multiple proceedings under Section 125.

9. Coming to the inquiry by the police, the learned APP has produced on record the report of inquiry conducted by the police. Report of the police in short is that there are no ladies residing with the names given in the proceeding referred above in Sillod as per the voters list. There are no such ladies with such name even in the record of the Municipal Council. They could get only copy of aadhar card of Kavita Chatalwar from the court at Sillod. Though the address in the aadhar card is shown to be Sneha Nagar, however, there is no such lady with this name residing on the said address. Respondent No.2 through initially cooperated police however, later on did not cooperate while verifying the aadhar card in the name of Kavita Chatalwar. The aadhar authorities could not give further information as there is no specific order by the court.

10. The police made inquiry with the person namely Anil Goleccha who is respondent in Criminal Misc. Application No. 200/2019. He mentioned that he does not know a lady by name Latabai who had filed proceeding against him under Section

125. He stated that he had received summons. However, he never went to the court and later on learnt that said proceeding was withdrawn by said Latabai. So far as Kailas Khandelwal respondent in Criminal Misc. Application No. 399/2019 is concerned he stated that he had received a notice of the court, however, he did not attend the court. Later on he was informed that the proceeding against him is withdrawn.

11. This petitioner stated in the enquiry that one Vaibhav with some others had encroached upon the property of the company in which this petition is working as Manager. Pursuant to that he had lodged the complaint on 17-12-2019 bearing Crime No. 226/2019 for the offences punishable under Sections 448, 452, 109, 506, 507 read with Section 34 of the Indian Penal Code. The police in the said crime filed charge-sheet against Vaibhav Tayade and Ashok Tayade. This Vaibhav Tayade had thereafter filed case against the petitioner under the Atrocities Act. In the said offence police submitted B-summary report. Vaibhav Tayade is son of Ashok Tayade who is an

Advocate. After he received summons in the proceeding he made an inquiry and found that it is this advocate who has filed all these four applications under Section 125. He suspects that after summons are served, the persons therein settled the matter and thereafter applications are withdrawn. The police also submitted report that all these proceedings are filed by Ashok Tayade and in all those cases advocate for the respondent is also common i.e. Advocate B. K. Dandge. The learned APP has placed on record the entire report and other documents.

12. It is thus clearly noticed that in all these proceedings except present one without recording any statement and without appearance of respondent those are simply withdrawn. The person in those proceedings under Sections 125 claimed that they never appeared in the court and lateron they came to know that the application came to be withdrawn. At least in two proceedings i.e. present proceeding i.e. Criminal Misc. Application Nos. 684/2019 & 200/2019 signature of the applicants appear to be of the same person. Further common

factor in all four proceedings is that advocates for the applicant are same. It is sufficient to create a doubt that it is a modus operandi of the advocates with connivance with some other persons involved in filing bogus cases under Section 125 under fictitious names and later on to withdraw the same. Though the statements of the persons in those proceedings show that they have not appeared before the court, however it appears that for some reason they are not willing to give statement against the lawyer or those ladies.

13. As already recorded now respondent No.2 has filed an affidavit stating her name as Latabi Bhimsing Jadhav and has given no objection to quash the proceeding under section 125. Question therefore naturally comes that if respondent No. 2 states her name to be Latabai Bhimsing Jadhav then why she accepted the summons in the name of respondent No.2. Another question as to why she gives no objection to withdraw proceeding filed by any other person. This court has also compared signatures of respondent No.2 on the affidavit filed

under name as Latabai Bhimsing Jadhav. It is similar to that of the applicants in the proceeding under Section 125 bearing Criminal Misc. Application Nos. 684/2019 and 200/2019. It is further clear that a case is made out to quash the proceeding of Criminal Misc. Application No. 684/2019.

14. On all the things recorded above, this court feels that there is need of investigation to be done when all these things have come to the notice of this court. This court has solicited assistance of the learned advocate for the petitioner and also as regards as to what action can be taken when such things are noticed by this court. The learned advocate invited attention to orders by this court at Nagpur Bench. The learned advocate for the petitioner relied on the judgment of this court at Nagpur bench reported in Manu/Mh/0253/2017 in *Suo Motu Vs Satish Mahadeorao Uke* wherein the court has taken cognizance and directed the Registry to take steps as per Rule 26 of the Rules to Regulate Proceedings for Contempt under Article 215.

15. Learned advocate further produced on record a judgment passed by this court at Nagpur in Criminal Application (APL) No. 1236/2021 in the case of Pankaj Nandwal Agrawal Vs State of Maharashtra and others. This court at Nagpur has issued certain directions for doing justice and directed to Bar Council of Maharashtra and Goa to hold an inquiry into the allegations made against the lawyer.

16. Considering the facts of this case this court feels that it is necessary to direct the Bar Council of Maharashtra and Goa to hold an enquiry against both the lawyers. For that purpose we direct the Registrar (Judicial) of this court to forward the copies of this order to the Secretary of Bar Council of Maharashtra and Goa for necessary action alongwith certified copies of petition and other documents. The Superintendent of the Court at Sillod is directed to lodge the complaint against respondent No.2 for the offence of impersonation etc. and also lodge the necessary proceeding against both the lawyers. The

Superintendent of the court at Sillod to further send certified copies of proceeding i.e. Cri. Misc. Application No. 200/2019, 399/2019, 338/2019 & 200/2019 filed in the court of Learned JMFC, Sillod to the Secretary of Bar Council of Maharashtra and Goa. The Secretary of Bar Council of Maharashtra and Goa is expected to take further necessary action by holding an enquiry against the Advocates namely Ashok Tayade and B. K. Dandge practicing at Sillod, Dist. Aurangabad.

17. The proceeding of Criminal Misc. Application No.684/2019 pending in the court at Sillod is quashed and set aside. The criminal writ petition stands allowed in terms of prayer clauses (B),(C) & (D).

18. However, for compliance report place the matter on board on 12-06-2023.

[KISHORE C. SANT, J.]