

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

48 CRIMINAL WRIT PETITION NO.1617 OF 2022

**PRITAM MANOHAR KOKANE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr.Satej S. Jadhav, Advocate for the petitioner.

Mr.PN. Kutti, APP for the respondent/State.

Ms.Vanita Sangole, Advocate (appointed) for respondent No.2.

**CORAM : KISHORE C. SANT, J.
DATED : 03.04.2023**

PC :-

01. Heard learned Advocate for the petitioner. The petition is taken up for final disposal by consent of the parties.

02. The petitioner/original accused has filed this petition challenging order dismissing his revision application by the learned Sessions Judge, Latur in Criminal Revision Application No.11 of 2022 by judgment and order dated 19.09.2022.

03. The case of the prosecution in short is that respondent No.2 got married with brother of the petitioner on 03.01.2016 at Latur. It is further

alleged that brother of the petitioner was working in Reserve Bank of India, Mumbai, however, he did not take his wife with him at Mumbai. It is alleged that the husband used to harass his wife. There is allegation that mother of this petitioner and the petitioner also used to harass the informant and were insisting to enter house property in the name of her husband. It is further alleged that in May, 2016 she came to know that husband had already performed marriage on 29.12.2013 and thus she came to know that she has been deceived by her in-laws. She further alleged that other accused are also responsible since they suppressed the fact of earlier marriage.

04. The police, after investigation, filed charge-sheet in the Court of learned JMFC, Latur bearing RCC No.649 of 2016. Present petitioner filed application for discharge. It is specific case of the petitioner that taking case as it is, no role is assigned to the petitioner. It is further case that he is staying away from family members as he is preparing for UPSC and MPSC examinations at Delhi, Mumbai and Pune. Taking the case as it is he has not played role in the incident.

05. The application came to be turned down by order dated

24.04.2022 holding that from the complaint and the charge-sheet name of the petitioner appears and some role is alleged against him, as specifically that the fact of earlier marriage of the husband of the informant is suppressed.

06. The petitioner, thereafter, preferred Criminal Revision Application No.11 of 2022 in the Court of learned Sessions Judge at Latur. The learned Sessions Judge at Latur in hearing the parties held that certainly a role of the petitioner is appearing on the material and dismissed the revision application by order dated 19.09.2019. In the meantime the petitioner and other family members had also approached this Court by filing Criminal Application No.1357 of 2022 for quashing of the proceedings. However, same was withdrawn unconditionally as appears from order dated 22.06.2022. The learned Advocate for the petitioner further submits that in view of filing of the Revision application, said application was withdrawn.

07. After going through the FIR it is seen that the only allegation against this petitioner is that his mother and he also harassed the informant and insisted that the property in the name of her father be transferred in the name of her husband. However, there are no specific allegations as to the

date, time etc. Another allegation appears to be that there was suppression of fact of earlier marriage even by the in-laws of the husband. The learned Advocate for the respondent No.2 showed statement of the earlier wife of the husband showing that the petitioner had knowledge of earlier marriage of his brother. It is her submission that therefore it is clear that even this petitioner was party to the fact of suppression of earlier marriage and thus both the Courts have rejected the discharge application.

08. The learned APP also supports the order passed by the Court below submitting that when the role is specifically assigned to the petitioner, there is no reason to discharge the petitioner.

09. This Court finds that in the FIR and also in the statements, no any specific role is assigned to his petitioner. Unless there is any sufficient material pointing out specific involvement of the petitioner, no charge can be framed against him. The learned Sessions Judge has considered the over all effect of the facts and allegations of the case, however, has failed to appreciate that no role of the petitioner is mentioned with sufficient averments so as to attract the ingredients of any of the offences. However, it is not specifically

stated as to what exactly is material against this petitioner and had passed order. This Court finds that taking material as it is, there is no sufficient allegation against the petitioner to frame charge against him. It was, therefore, necessary to allow discharge application of the petitioner. This Court thus finds that case is certainly made out calling for interference under Article 227 of the Constitution. Hence, following order :-

ORDER

- i. The order dated 19.09.2022 passed by the learned Sessions Judge, Latur in Cri. Revision Application No.11 of 2022 is quashed and set aside.
- ii. Application Exh.36 filed by the petitioner in RCC No.649 of 2016 in the Court of learned JMFC, Latur stands allowed.
- iii. Learned Advocate Ms. Vanita Sangale was appointed through Legal Aid. Her fees is quantified at Rs.7500/- (Rupees Seven Thousand Five Hundred) for assisting this Court.
- iv. The criminal writ petition is accordingly allowed and disposed off.

[KISHORE C. SANT, J.]