

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

CRIMINAL APPLICATION NO. 3698 OF 2019

GANESH S/O. BHAGWANSINGH GIRASE
VERSUS
THE STATE OF MAHARASHTRA AND ANR

Mr. S. S. Munot, Advocate h/f Mr. A. D. Ostwal, Advocate for the applicant

Mr. G. O. Wattawmar, APP for the respondent/State

Mr. M. V. Salunke, Advocate and Nitin Jagdale, Advocate for respondent No.2.

CORAM : R. M. JOSHI, J.

DATE : 27th SEPTEMBER, 2023

P.C. :-

1. This application filed under Section 482 of Cr.P.C. taking exception to order dated 04/10/2019 passed by the learned Addl. Sessions Judge, Dhule in Criminal Revision Application No. 157/2018.

2. The applicant had filed an application being Misc. Criminal Application No. 275 of 2018 under Section 13(3) of the Registration of Births and Deaths Act, 1969 and Rule 9(3) of Maharashtra Births and Deaths Registration Rules, 2000 before JMFC, Shindkheda, Dist. Dhule. In the said application direction was sought to take birth entry of the applicant. An order came to be passed in the said application on 27/11/2018 in favour of the applicant. The respondent No.2 being aggrieved by the said order preferred Criminal Revision Application No.

157 of 2018 before Addl. Sessions Judge which application came to be allowed to be allowed by passing impugned order.

3. Learned counsel for the applicant states that by placing reliance on judgment of this Court in case of **Nasir Fatema V. State of Maharashtra, 2018(3) AABR (Cri) 645** has submitted that the Criminal Revision application under Section 397 of Cr.P.C. is not maintainable challenging the order passed under Section 13(3) of the Act. This Court concurs with the said view.

4. Learned counsel for the respondent was unable to show anything from record before this Court to accept his submissions or to make this Court to take a different view than the one taken by the learned Single Judge of this Court in the aforesaid dispute.

5. In view of this the learned Addl. Sessions Judge had no jurisdiction to entertain the challenge to the order passed by the learned Magistrate under Section 13(3) of the Act, as such, the order in question cannot sustain. Hence, application is allowed. Impugned order dated 04/10/2019 is set aside.

(R. M. JOSHI, J.)

ssp