



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL WRIT PETITION NO. 536 OF 2024

Shaikh Kadar JamalPetitioner

VERSUS

Nasibabi Kadar Jamal ... Respondent

.....
Mr. Ravindra V. Gore, Advocate for Applicant

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 20th MARCH, 2024

ORDER :

1. Petitioner is aggrieved by order passed by learned Principal Judge, Family Court, Aurangabad, below Exhibit-58 in Petition No. E-185/2019.

2. Respondent-wife has filed Petition under section 125 of the Code of Criminal Procedure. According to petitioner, she has suppressed the fact that she remarried with Shaikh Jabbar Shaikh Abdul Bhai on 18.11.1980 at Kazi Office, Taluka-Paithan, District-Aurangabad. By filing Exhibit-16, petitioner sought permission to place on record photocopy of *Nikahnama* dated 18.11.1980. Thereafter, petitioner filed Exhibit-58 for direction to respondent-wife to file original original copy of *Nikahnama* dated 18.11.1980. The said application was oppose by respondent-wife, as not maintainable. Application Exhibit-58 is rejected. Hence the present petition.

3. Heard learned advocate for petitioner. Perused the grounds raised in the petition, memo, annexures thereto and impugned order.

4. Learned advocate for petitioner strenuously submits that petitioner wants to confront respondent with the said *Nikahnama* since petitioner is having only a photocopy of the same. Original *Nikahnama* needs to be brought before the Court so that petitioner can confront the same to respondent.

5. Perusal of record indicates that *Nikahnama* is specifically denied by respondent-wife. Petitioner has failed to prove the source of that document. Therefore, trial Court has observed that there is no question of giving any direction to respondent-wife to produce the said *Nikahnama* and petitioner can adopt other legal modes, if he wants to bring the original of the said document before the Court or the certified copy of it. As is rightly observed by the trial Court that the source of the document should be legal one and petitioner can examine any witness if he wants to prove the *Nikahnama* when he leads evidence. Petitioner can even prove the said *Nikahnama* by examining attesting witnesses or Kazi. It appears that by filing such application, petitioner wants to collect the evidence under the orders of the Court, which is not permissible in law.

6. There is no error of law or jurisdictional error committed by trial Court. Well reasoned order is apposed by the trial Court, which is not liable to be interfered with in extraordinary writ jurisdiction. Writ Petition is therefore dismissed.

[NITIN B. SURYAWANSHI]
JUDGE