



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

65 CRIMINAL WRIT PETITION NO. 2057 OF 2019

MANOJ S/O. RAM PURI AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANR

Mr. Prashant V.Gole h/f. Mr. V.D. Gunale Advocate for the petitioners.
Mrs. Chaitali Choudhari Kutti, APP for the respondent-State.
Mr. V.B. Deshmukh, Advocate for respondent No.2.

CORAM : KISHORE C. SANT, J.
DATE : 05.08.2025

PC :-

01. Heard learned Advocate for the petitioners, learned APP for the respondent-State and learned Advocate for respondent No.2.

02. The petitioners have approached this Court challenging an order issuing process dated 26.10.2017 passed by the learned JMFC, Degloor, Dist. Nanded in RCC No. 188 of 2017 and judgment and order dated 05.12.2019 passed by the learned Additional Sessions Judge, Biloli, in Criminal Revision No. 2 of 2018.

03. By order dated 08.01.2020 this petition is already withdrawn to the extent of petitioner Nos.1 to 3 and now the petition is only in respect of petitioner Nos. 4 to 9.

04. Respondent No.2 filed a complaint under section 494 of the Indian Penal Code, in the Court of learned JMFC, Degloor, bearing RCC No.188 of 2017. The learned JMFC directed Police to submit a report under section 202 of the Cr.P.C. The police on making investigation filed a report under section 202 of the Cr.P.C. The report states that petitioner No.1 has performed second marriage with one Supriya, who is shown to be accused No.2 in the complaint. Present petitioner No.4 is accused No.5 (sister of husband), petitioner No.5 is accused No.6 (maternal aunt of the husband), petitioner No.6 is accused No.7 (husband of petitioner No.5), petitioner No.7 is accused No.8 (maternal uncle of husband), petitioner No.8 is accused No.10 (cousin), petitioner No.9 is accused No.11 (maternal uncle of mother).

05. It is alleged in the complaint that when she had been to her parents house in Degloor for some time in vacation, she came to know that accused No.1 has performed second marriage with accused No.2 on 13.04.2017 at Mahadev Temple, Pimpalgaon, Tq. Degloor. It is alleged that the present petitioners have abetted the said crime. The petitioners inspite of having knowledge of first marriage, participated in the second marriage ceremony.

06. Considering the above and report of police, the learned Magistrate issued process by order dated 26.10.2017, holding that a case is made out.

07. Learned Advocate for the petitioners submits that in-fact, there is no material against present petitioners. The allegations are omnibus. It is only stated in the complaint that these petitioners were present at the time of alleged second marriage. Even police recorded statement of one Lata Giri and Marotiappa Swami (Hippargekar). Both these statements would show that only allegations are about presence of these petitioners. Except that there is no allegation. No any specific role is attributed to any one. In such circumstances, to continue the proceeding against these petitioners would be an abuse of process of law. Therefore, the process deserves to be quashed and set aside.

08. As against this, learned APP and learned Advocate for respondent No.2 vehemently oppose the petition. They submit that a case is clearly made out against the petitioners. The learned Trial Judge has rightly passed order issuing process. The learned Additional Sessions Judge rightly rejected the Criminal Revision.

09. This Court has gone through the complaint. From the complaint, it is seen that the allegations are mainly against accused No. 1 to 3. Against present petitioners, there are no specific allegations, as to what role they played in the alleged second marriage. From the police report, it is seen that there are only two statements of Lata Giri and Marotiappa. Both the statements are short in making out any case under section 494 of the IPC, even if said statements are taken on their face value. The learned Trial Court has passed cryptic order. It is only observed that the report of the police is real and a case is made out to issue process.

10. The learned Sessions Judge while rejecting the revision has observed that the report of police under section 202 of the Cr.P.C. is sufficient, to make out the offence. It is observed that the relevant documents are perused, however, there is no mention as to which relevant documents were considered. The revision has been mainly dismissed as same is not maintainable against order of issuance of process. The Sessions Court further observed that detailed report is submitted by police. This Court, however finds that the police report also does not make out any case, so far as present petitioners are concerned.

This Court, therefore, finds that the petition deserves to be allowed.

11. Hence, this Criminal Writ Petition is allowed in terms of prayer clause (C). Since the complaint is of the year 2017, it is expected of the Trial Court to dispose off the same as expeditiously as possible and preferably within one year from today.

12. Needless to mention that the observations made this order are only for the purpose of deciding this petition and the Trial Court shall not be influenced by the said observations.

[KISHORE C. SANT, J.]