



IN THE HIGH COURT OF JUDICATURE AT BOMBAY :
NAGPUR BENCH : NAGPUR.

CRIMINAL APPEAL NO. 722 OF 2022

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Sau. Minkashi Satish Nichat,
Age 50 years, Occ. Household,
R/o Telipura, Shirajgaon Kasba,
Tah. Chandur Bazar, District- Amravati.

...

APPELLANT

- - V E R S U S - -

- 1] Satish Marotrao Nichat,
Age 52 years, Occ. Agriculturist,
- 2] Sushma Sanjay Landore
@Sushma Satish Nichat,
Age 41 years, Occ Teacher,
- 3] Raju Marotirao Nichat, .
Age 65 years, Occ. Agriculturist,
- 4] Sanjay Marotirao Nichat,
Age 60 years, Occ. Agriculturist,
- 5] Ashok Marotirao Nichat,
Age 70 years, Occ. Agriculturist,

Nos.1 to 5 R/o Telipura,
Sirajgaon Kasba, Tah. Chandur Bazar,
District Amravati.

6] Smt. Bebitai Vitthalrao Sune,
Age 65 years, Occ. Agriculturist,

7] Sandip Vitthalrao Sune,
Age 50 years, Occ. Agriculturist.

Respondent Nos. 6 & 7,
R/o Near Electric office, Shirajgaon Kasba,
Tah. Chandur Bazar, District- Amravati.

... **RESPONDENTS**

Mr. A.V. Bhide, Advocate for the Appellant.
Mr. N.A. Gawande, Advocate (Through V.C.) for the Respondents.

CORAM : M.M. NERLIKAR, J.

DATE : NOVEMBER 17, 2025.

ORAL JUDGMENT :

Heard the learned counsel for the Appellant and the
Respondents.

2. **Admit.** The appeal is taken up for final hearing.

3. The appellant challenges the judgment and order

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dated 15/07/2022, passed by the Judicial Magistrate First Class, Court No.1, Chandur Bazar. The appellant is wife of the accused No.1 – Satish Nichat. The complaint was filed by the appellant for the offence punishable under Section 494 read with Section 34 of the Indian Penal Code, 1860. After leading evidence, all the accused were acquitted for the aforesaid offence.

4. The learned counsel appearing for the appellant submits that the appellant has duly proved the marriage between respondent Nos.1 and 2 by placing on record a copy of the judgment and order dated 05/11/2015 passed by Ad-hoc District Judge-1, Achalpur, in Regular Civil Appeal No.73/2013 and submits that the Appellate Court has given a finding that the second marriage is not proved by the present appellant. He further submits that the appellant has also proved the birth certificate which goes to show that the son born out of the said wedlock is sufficient to prove the second marriage.

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5. On the other hand, the learned counsel appearing for the respondents submit that the appellant failed to prove the second marriage as there is no cogent evidence in order to prove the second marriage. The evidence which was adduced by the appellant herself was deposed in the matter and her evidence is not sufficient to come to the conclusion that the respondent Nos.1 and 2 has performed the second marriage. He further submits that in view of Section 7 of the Hindu Marriage Act, 1955, it is necessary to prove the second marriage as a valid marriage. Lastly, he submits that there is no merit in the appeal and the same be dismissed.

6. Upon hearing the learned counsel appearing for the appellant as well as the respondents and after going through the record and proceedings, it appears that the appellant examined herself to support her case. She has deposed that she has not witnessed the marriage between the respondent Nos.1 and 2, however, her uncle has attended the said marriage.

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Therefore, this part of the evidence is based on the hearsay evidence which cannot be accepted. Secondly, after perusal of the entire evidence, it cannot be said that there was a valid marriage between the respondent Nos.1 and 2. In order to prove the offence punishable under Section 494 IPC, the first ingredient is the existence of first marriage and secondly the second marriage has to be a valid marriage.

7. After perusal of the evidence on record, there is no iota of evidence in order to show that the respondent No.1 has performed a valid marriage. As was observed by the learned Trial Court in Para 16 that in order to prove valid marriage, essential religious and customary ceremonies as are contemplated under Section 7 of the Hindu Marriage Act, 1955, are necessary to be proved, however, the appellant has miserably failed to prove all those ingredients. Even the Birth Certificate which was issued by the Municipal Council, Achalpur, cannot be considered for the reason that none of the

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person from the Achalpur Municipal Council were examined and under such circumstances, it is very difficult to place reliance on the said Birth Certificate.

8. Considering the facts and circumstances of the case, I find no fault in the judgment of acquittal passed by the learned Judicial Magistrate, First Class, Court No.1, Chandur Bazar, and therefore, the appeal is **dismissed**.

[**M. M. NERLIKAR, J**]