



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

CRIMINAL APPLICATION [APL] NO.1192 OF 2024
WITH
CRIMINAL APPLICATION [APL] NO.194 OF 2024
WITH
CRIMINAL APPLICATION [APL] NO.10 OF 2024

CRIMINAL APPLICATION [APL] NO.1192 OF 2024

Ms. Swati Choudhary,
Aged about 38 years,
Occupation-IT Professional,
R/o. 1648 Clayfire
dr, cary, NC, United State of
America.

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Applicant

.. Versus ..

1. The State of Maharashtra,
Through Police Station Officer,
Nandgaonpeth Police Station,
District-Amravati.

2. Sushil Bholasingh Khojare
Aged about 47 years,
Occupation-Private Service,
R/o. Shilpakala Colony,
Shegaon Rahatgaon Road,
Amravati, District-Amravati. ..

Non-Applicants

WITH

CRIMINAL APPLICATION [APL] NO.194 OF 2024

1. Ms. Sonal Kailash Choudhary
Aged about 33 years, Occ : Job.

2. Mr. Gurdial Singh
Aged about 42 years,
Occ : Job.

Applicant Nos.1 and 2 R/o. 1648,
Clayfire dr, Cary, NC, United States
of America.

3. Ms. Smita Agarwal
Aged about 49 years,
Occ : Home Maker,
R/o. 9716 Llsno Estacado
Lane, Austin TX, United States
of America.

4. Ms. Swapna Shah,
Aged about – Major,
Occ : Nursing Professional,
R/o. 224, Annabele Branch LN,
Apex, NC, United States of America.

5. Ms. Dina Sequeira
Aged about years,
Occ : Job. R/o.1344
Soaring silo Way, Apex, NC,
United States of America.

6. Mr. Deepak Sharma,
Aged about 50 years, Occ. Job
R/o. 1413, Tinos Overlookway,
Apex NC, United State of America. ..

Applicants

.. Versus ..

1. The State of Maharashtra,
Through Police Station Officer,
Nandgaonpeth Police Station,
District-Amravati.

2. Sushil Bholasingh Khojare,
Aged about 47 years,
Occupation-Private Service,
R/o. Shilpakala Colony,
Shegaon Rahatgaon Road,
Amravati, District-Amravati. .. Non-Applicants

WITH

CRIMINAL APPLICATION [APL] NO.10 OF 2024

1. Mr. Kailash Choudhary
Age 67 years, Occ: Homemaker.
2. Mrs. Shobha Choudhary
Age 59 years, Occ : Homemaker.
3. Mr. Ajay Choudhary s/o Kailash,
Age 40 years,
Occ : Govt. Civil Contractor

Applicant Nos.1 to 3 R/o. 115-EW
Scheme No.94-e Ring Road,
Indore-452001 (M.P.) ..

Applicants

.. Versus ...

1. The State of Maharashtra,
Through Police Station Officer,
Nandgaonpeth Police Station,
District-Amravati.
2. Sushil Bholasingh Khojare
Aged about 47 years,
Occ : Private Service,
R/o. Shilpakala Colony,
Shegaon Rahatgaon Road,
Amravati, District-Amravati. .. Non-Applicants

Shri Shyam Dewani with Shri Sahil Dewani, Advocates for Applicants.

Mrs. Deepa I. Charlewar, Additional Public Prosecutor for Non-Applicant No.1/State.

Shri S.Y. Deopujari with Mrs. Gauri Sumant Deopujari, Advocates for Non-Applicant No.2.

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CORAM : PRAVIN S. PATIL, J.

DATED : 16.02.2026.

JUDGMENT

1. Heard the learned counsel for the respective parties.
2. Applicants in Criminal Application (APL) Nos.1192/2024 and 194/2024 are the NRI citizens of USA. In Criminal Application (APL) No.10/2024, the applicants are the residents of India. In all these applications, the prayer is common. All these applicants seek to quash and set aside the order dated 21.7.2023 passed by the Additional Sessions Judge-2, Amravati in Criminal Revision Application No.55/2023.
3. The Non-Applicant No.2 filed application under Section 156 (3) of the Code of Criminal Procedure before the learned Judicial Magistrate, First Class, Amravati alleging that from the

date of marriage, Mrs. Swati Choudhary, with the help of applicants, harassed him economically since year 2016. According to him, conspiracy was hatched against him by taking defamatory photo and demanded Rs.2 crore.

4. The learned Judicial Magistrate, First Class, Amravati by his order dated 28.3.2023, instead of issuing direction under Section 156 (3) of the Code of Criminal Procedure, hold that the matter be tried as complaint before him under Chapter XV of the Code of Criminal Procedure. So also directed to list the matter for recording the statement of the complainant and his witnesses under Section 200 of the Code of Criminal Procedure.

5. The Non-Applicant No.2, being dissatisfied with the order passed by the learned Magistrate, has preferred the Criminal Revision Application No.55/2023. According to him, considering the allegations which he has made, the police machinery can only investigate the matter. Accordingly, the Additional Sessions Judge, Amravati in Criminal Revision Application No.55/2023, by his order dated 21.7.2023, allowed the revision filed by the Non-Applicant No.2 and directed to

sent the complaint to the Police Station, Nandgaon Peth, Amravati for investigation under Section 156 (3) of the Code of Criminal Procedure.

6. As per the order of the Additional Sessions Judge, Police Station Nandgaon Peth registered the offence vide Crime No.0282/2023 for the offence punishable under Section 380, 384, 385, 420, 504, 506 r/w 34 of the Indian Penal Code against the present applicants.

7. In view of this registration of the offence in terms of the order of the Additional Sessions Judge, the present applicants approached before this court and seek quashment of the entire criminal proceedings registered against them in the matter.

8. The main submission of the present applicants is that before the Additional Sessions Judge, they should have been impleaded as a necessary party to the proceeding as same was filed against the order of the JMFC dated 28.3.2023. However, as they were not made party before the Additional Sessions Judge, they could not get opportunity of hearing and accordingly the order came to be passed by the learned

Additional Sessions Judge without granting them the hearing opportunity.

9. The applicants, in support of their proposition, has relied upon the judgment of Hon'ble Supreme Court of India in the case of ***Subhash Sahebrao Deshmukh .vs. Satish Atmaram Talekar and others, reported in (2020) 6 SCC 625***, wherein in para 9 the Hon'ble Supreme Court has observed as under :

"9. The restoration of the complaint by the Additional Sessions Judge was undoubtedly to the prejudice of the appellant. The right of the appellant to be heard at this stage need not detain us any further in view of Manharibhai observing as follows: (SCC p. 544, para 53)

"53. We hold, as it must be, that in a revision petition preferred by the complainant before the High Court or the Sessions Judge challenging an order of the Magistrate dismissing the complaint under Section 203 of the Code at the stage under Section 200 or after following the process contemplated under Section 202 of the Code, the accused or a person who is suspected to have committed the crime is entitled to hearing by the Revisional Court. In other words, where the complaint has been dismissed by the Magistrate under Section 203 of the Code, upon challenge to the legality of the said order being laid by the complainant in a revision petition before the High Court or the Sessions Judge, the persons who are arraigned as accused in the complaint have a right to be heard in such revision petition. This is a plain requirement of Section 401(2) of the Code. If the

Revisional Court overturns the order of the Magistrate dismissing the complaint and the complaint is restored to the file of the Magistrate and it is sent back for fresh consideration, the persons who are alleged in the complaint to have committed the crime have, however, no right to participate in the proceedings nor are they entitled to any hearing of any sort whatsoever by the Magistrate until the consideration of the matter by the Magistrate for issuance of process. We answer the question accordingly. The judgments of the High Courts to the contrary are overruled."

10. The learned counsel for Non-Applicant no.2 has strongly opposed this application. According to Non-Applicant No.2, considering the allegations in the matter and the fact that these allegations can only be investigated by the police machinery, the Sessions Judge committed no wrong in passing the order. According to him, even though the applicants would have been granted opportunity, same order would have been passed in the matter and, therefore, considering the allegations which are specific in nature, the indulgence of this court is not necessary and further the investigation which is going on same should be continued in the matter.

11. In the backdrop of this legal position, in my opinion, the learned Sessions Judge ought to have direct the Non-

Applicant No.2 to implead the present applicants as a necessary party to the proceeding, then could have proceed further to decide the revision but he failed to do this exercise in the matter.

12. It is further pertinent to note that the documents which are relied and produced with present application is not a part and parcel before the Sessions Court, particularly the divorce judgment between parties dated 11.5.2018, consent order for alimony and equitable distribution judgment dated 12.3.2018 etc. which are placed on record before this court. As such, due to non grant of hearing opportunity, same was not came before Sessions Court and order came to be passed without considering the documentary proof available with the applicants in the matter.

13. In the circumstances, I am of the considered opinion that the issue can be resolved in the matter if the matter is remitted back to the Sessions Judge, Amravati to decide afresh Criminal Revision Application No.55/2023 by granting opportunity of hearing to the present applicants as well as the

Non-Applicant No.2 and reconsider the entire controversy afresh by the Revisional Court. And after hearing both the parties, passed the appropriate order in the matter.

14. Accordingly, judgment dated 21.7.2023 passed in Criminal Revision Application No.55/2023 is hereby quashed and set aside. Criminal Revision Application No.55/2023 is remitted back to the Additional Sessions Judge, Amravati with a direction to the Non-Applicant No.2 to implead all the applicants as a necessary party to the proceeding.

15. The present applicants undertake to appear before the Additional Sessions Judge on 17.3.2026 personally or through their Advocates.

16. In view of setting aside the judgment of Revisional Court, the consequential proceedings of investigation by police machinery are stayed till the fresh decision of Revisional Court. The police authorities will act as per the fresh decision of Revisional Court in the matter.

17. With these observations, all the applications stand disposed of.

(Pravin S. Patil, J.)

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