

**IN THE HIGH COURT OF MADHYA PRADESH  
AT INDORE  
BEFORE  
HON'BLE SHRI JUSTICE VIVEK RUSIA  
ON THE 18<sup>th</sup> OF APRIL, 2023  
MISC. CRIMINAL CASE No. 15869 of 2021**

**BETWEEN:-**

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.....  
**.....APPLICANTS**

**(APPLICANT PRESENT IN PERSON.)**

**AND**

**THE STATE OF MADHYA PRADESH STATION  
1. HOUSE OFFICER THROUGH P.S. BIRLAGRAM,  
DISTRICT UJJAIN (MADHYA PRADESH)**

**.....RESPONDENTS**

**(SHRI RANJEET SEN, LEARNED GOVERNMENT ADVOCATE FOR THE  
RESPONDENT/STATE.)**

Reserved on : 27.03.2023  
Delivered on : 18.04.2023

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*This application coming on for orders this day, the court passed the  
following:*

**ORDER**

1- Petitioners have filed this present petition under Section 482 of the Code of Criminal Procedure, 1973 seeking quashment of the FIR registered at Crime No.10/2020 at police station Birlagram, District Ujjain under Section 420 of IPC.

2- Applicant No.1 is Christian by religion and Applicant No.2 is Hindu by religion. They both had an affair and after attaining the age of majority they decided to marry each other. They got their marriage solemnized with the help of one Ramesh Maharaj in the temple of Khachrod. Ramesh Maharaj issued a letter certifying the marriage of the applicants. Applicant no.1 with an apprehension of threat from the father of applicant No. 2 approached this Court by way of W.P. No.9867/2019 seeking police protection. Vide order dated 14.05.2019 the writ petition was disposed of directing police authorities to give protection to the applicants if required.

3- Respondent No.2 who is the father of applicant No.2 filed a review petition on the ground that the above writ petition which was disposed of without notice to him accordingly vide order dated 29.11.2019 writ petition was restored. However, vide order dated 10.12.2019 the Writ Petition No.9867/2019 was dismissed for want of prosecution as the counsel appearing for applicants pleaded no instruction but the Writ Court while disposing of the writ petition has opined that the alleged marriage is in the zone with vulnerability and, therefore, no sanctity can be attached.

4- Respondent No.2 also lodged an FIR on 10.01.2020 at police station Birlagram, District Ujjain under Section 420 against Ramesh Maharaj Manager of Neel Kantheshwar Mahadev Bhakth Mandal Samiti Mehtawas Nagda, Birlagram alleging that this Court had treated the

marriage invalid, therefore, since he had indulged into a forged marriage and issued a certificate hence committed the offence of cheating with him. Initially, the FIR was registered against Ramesh Maharaj only but at the time of filing the charge-sheet, the name of the present applicants has been added as co-accused hence, the present petition before this Court.

5- Applicant No.1 present in person submits that both husband and wife are living peacefully and happily then how the allegation of cheating is sustainable against them. Out of the said wedlock, applicant No.2 gave birth to a child. The ingredients of Section 420 of IPC are missing, as no such cheating has been done with anyone, and they both were married and were competent to perform the marriage, therefore, the registration of FIR is nothing but a misuse of the process of law. The applicants are unnecessarily being harassed to face the trial, at the behest of the respondent, No.2 who was not happy with the marriage as applicant No.1 follows the Christian religion. The rest of the charges under Sections 467, 468, 471, and 420 are against these applicants hence, they are praying for quashment of FIR under Section 420 of IPC.

6- Learned Government Advocate appearing for the respondent/State opposes the aforesaid prayer by submitting that applicants were not competent to enter into the marriage, they belong to different religions, they ought to have performed the marriage under the provisions of the Special Marriage Act, 1954 not in the temple hence, the petition may kindly be dismissed.

***Appreciation and conclusion***

7- Undisputedly, applicant No.1 follows the Christian religion and the applicant No.2 belongs to the Hindu religion but they both were majors

and there is no bar under any law that they cannot perform the marriage or even if they have performed the marriage they have not violated any penal provisions of IPC.

8- Inter-religion marriage in India has legal implications that are governed by various laws and acts. The Constitution of India guarantees the right to freedom of religion, including the right to marry a person of one's choice, irrespective of their religion. However, there are several legal challenges that couples of different religions face while getting married. Under the Hindu Marriage Act of 1955, marriages between Hindus and non-Hindus are not recognized as valid. Hence, couples who wish to get married under this act must first convert to Hinduism. Similarly, Muslim personal law does not permit Muslim women to marry non-Muslim men without the latter's conversion to Islam.

9- Couples of different religions can choose to get married under the Special Marriage Act, 1954 and provisions of this act provide for a civil marriage ceremony and requires a thirty-day notice period for the marriage to be registered. However, the act of 1954 imposes certain restrictions, such as the requirement for the couples to be of marriageable age, mentally sound, and not within the prohibited degrees of relationship. Moreover, the act also requires the couple to declare that they are not currently married to anyone else. The applicants are fulfilling all these requirements.

10- One of the main challenges that inter-religion couples face is the opposition from their families and communities like respondent No. 2 being the father of applicant No.2 is not accepting the marriage of applicants. This opposition often leads to harassment, threats, and violence against the couple. In such cases, the police and the judiciary play a crucial role in ensuring the safety and protection of the couple. The Supreme Court

of India has also ruled that adults have the right to choose their life partners, irrespective of their religion or caste.

11- In conclusion, inter-religion marriage in India is legally permissible, but it is not without its challenges. The legal framework governing inter-religion marriage is complex and requires the couples to navigate several legal hurdles. Moreover, the societal opposition to inter-religion marriage often makes it difficult for couples to exercise their legal rights.

12- At the most, applicants are required to get their marriage registered under Section 16 of the Special Marriage Act, 1954. Chapter III deals with the registration of marriage celebrated in every form, as per Section 15 of the Act of 1954 any marriage celebration whether before or after the commencement of the Act of 1954 other than marriage solemnized under the Special Marriage Act, of 1872 may register under this chapter by a Marriage Officer subject to fulfilling the condition A to F of the Special Marriage Act, 1954. Sections 15 and 16 of the Special Marriage Act, 1954 are reproduced below:

***15. Registration of marriages celebrated in other forms.-Any marriage celebrated, whether before or after the commencement of this Act, other than a marriage solemnized under the 'Special Marriage Act, 1872 (III of 1872) or under this Act, may be registered under this Chapter by a Marriage Officer in the territories to which this Act extends if the following conditions are fulfilled, namely:-***

***(a) a ceremony of marriage has been performed between the parties and they have been living together***

*as husband and wife ever since;*

*(b) neither party has at the time of registration more than one spouse living;*

*(c) neither party is an idiot or a lunatic at the time of registration; (d) the parties have completed the age of twenty-one years at the time of registration; (e) the parties are not within the degrees of prohibited relationship*

*Provided that in the case of a marriage celebrated before the commencement of this Act, this condition shall be subject to any law, custom or usage having the force of law governing each of them which permits a marriage between the two; and*

*(f) the parties have been residing within the district of the Marriage Officer for a period of not less than thirty days immediately preceding the date on which the application is made to him for registration of the marriage.*

*16. Procedure for registration.-Upon receipt of an application signed by both the parties to the marriage for the registration of their marriage under this Chapter the Marriage Officer shall give public notice thereof in such manner as may be prescribed and after allowing a period of thirty days for objections and after hearing any objection received within that period, shall, if satisfied that all the conditions mentioned in section 15 are fulfilled, enter a certificate of the*

***marriage in the Marriage Certificate Book in the form specified in the Fifth Schedule, and such certificate shall be signed by the parties to the marriage and by three witnesses.***

13- So far as the charge under Section 420 of IPC against the applicants is concerned, as per the definition of cheating under Section 415 I.P.C. a person is said to have committed cheating if he dishonestly induced a person to deliver his property. Cheating is an essential ingredient of Section 420 of IPC which is defined under Section 415 of IPC and according to which there should be fraudulent and dishonest inducement of a person by deceiving him. Applicants No.1 and 2 are not making any allegation of cheating against each other. Respondent No.2 has lodged an FIR against Ramesh Maharaj that he illegally performed the marriage of the applicants and issued a certificate and committed cheating. In the FIR itself, it is mentioned that the daughter of the complainant i.e. applicant No.2 eloped with applicant No.1 and on 03.05.2019 they performed the marriage in Neelkantheshwar Mandir. Before performing the marriage in the Neelkantheshwar Temple they have already performed the marriage and got notarized with the notary, as held above this is not an offence. Hence the elements of cheating against the applicants are missing in this case.

14- The applicants are fulfilling all these conditions, they may apply for registration of marriage but no case for punishing them under Section 420 of IPC is made out as held by Apex Court in the case of ***Archana Rana v/s State of Uttar Pradesh and another reported in (2021) 3 SCC 751***. Paragraphs No. 7, 8 and 9 of the said case are reproduced below:

*7. Having heard the learned counsel appearing on behalf of the appellant and the learned counsel appearing on behalf of the respondent State and having gone through the averments in the complaint and the charge-sheet, even if the averments made in the complaint are taken on their face, they do not constitute the ingredients necessary for the offence under Sections 419 and 420 IPC. As observed and held by this Court in R.K. Vijayasarathy, the ingredients to constitute an offence under Section 420 are as follows:*

*(i) a person must commit the offence of cheating under Section 415:*

*and*

*(ii) the person cheated must be dishonestly induced to*

*(a) deliver property to any person; or (b) make, alter or destroy valuable security or anything signed or sealed and capable of being converted into valuable security. Thus, cheating is an essential ingredient for an act to constitute an offence under Section 420 IPC.*

*8. "Cheating" is defined under Section 415 IPC. The ingredients to constitute an offence of cheating are as follows:*

*(i) there should be fraudulent or dishonest inducement of a person by deceiving him:*

*The person who was induced should be intentionally induced to deliver any property to any*

*person or to consent that any person shall retain any property, or the person who was induced should be intentionally induced to do or to omit to do anything which he would not do or omit if he were not so deceived.*

*Thus, a fraudulent or dishonest inducement is an essential ingredient of the offence under Section 415 IPC. A person who dishonestly induced any person to deliver any property is liable for the offence of cheating.*

*9. Now, keeping in mind the relevant ingredients for the offences under Sections 419 and 420 IPC, as noted hereinabove, it is required to be considered whether the averments in the complaint taken on their face do constitute the ingredients necessary for the offences under Sections 419 and 420 IPC, as alleged.*

In view of the above, FIR was registered at Crime No.10/2020 at police station Birlagram, District Ujjain and the charges are **quashed** in respect of Section 420 of IPC.

With the aforesaid, the present petition is **allowed**.

**(VIVEK RUSIA)**  
**JUDGE**

Divyansh