

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 2340 OF 2017**

Mr. Prateek Bhatnagar & Ors

..Petitioners

Vs.

The State of Maharashtra

..Respondents

Mr. Saurabh Shrivastava i/b Mr. S. K. Gimekar for the Petitioners

Mrs. A. S. Pai Addl PP for the Respondent State

Ms Rohini Salian i/b Mr. Santosh Bhatagunaki for the Respondent No.2

**CORAM :R. M. SAVANT, &
SANDEEP K. SHINDE, JJ
DATE : 28th SEPTEMBER, 2017**

P.C.

1 By the above Writ Petition the Petitioners seek the relief of quashing of the proceedings bearing RCC No.788 of 2017 arising out of FIR No.14 of 2017 for the offences punishable under Sections 406, 417, 494, 495 read with 34 of the Indian Penal Code. The Petitioner also seeks quashing of the FIR bearing No.14 of 2017, however, since charge sheet has been filed, the Petitioner is principally seek quashing of the proceeding being RCC No.788 of 2017, JMFC Lashkar Pune.

2 The marriage between the Petitioner No.1 and the first informant i.e. the Respondent No.2 was solemnised on 10-12-2016. It seems that prior thereto the family of the Respondent No.2 had travelled to Australia, wherein the Petitioner No.1 was working. The disputes between the Petitioner and the

Respondent No.2 have arisen after the marriage when the Respondent No.2 allegedly received a Whatsapp message from +61402087861. It is alleged in the FIR that the family of the Petitioner No.1 pressurised the parents of the Respondent No.2 to incur extravagant marriage expenses. There are further allegations which appear in the supplementary statements of the Respondent No.2 which have been recorded. It is not necessary to dilate into minute details of the case of the Respondent No.2 as recorded in the said FIR.

3 The Learned Counsel for the Petitioner in pursuit of the relief sought in the above Petition i.e. quashing the charge sheet and the proceedings would make two fold submissions, one as regards the jurisdiction of Pune Police to register the FIR and second submission is that there are absolutely no allegations in so far as the Petitioner No.3 i.e. the elder brother of the Petitioner No.1, in the charge sheet. The Learned Counsel in support would rely upon the judgments of the Apex Court in the matter of **Y. Abraham Ajith & Ors. Vs. Inspector of Police, Chennai & Anr.**¹ and in the matter of **Geeta Mehrotra & Anr Vs. State of U. P. & Anr.**²

4 In the said context, it is required to be noted that the marriage between the Petitioner No.1 and the Respondent No.2 took place after they had seen their respective profiles on BharatMatrimony.com. In so far as the

1 2005(1) KLJ 449 (SC)

2 2013(1) UC 299

Petitioner No.1 is concerned, in his profile it was mentioned that he is unmarried. It seems that the Petitioner No.1 in support of his said status had produced the certificate that he is divorced from one Farha Hasan Khan. The dispute as indicated above was triggered on account of the alleged whatsapp message received by the Respondent No.2 on her cell phone from mobile No. +61402087861. The transcript of the said message has been reproduced in the statement of the Respondent No.2. There is no dispute about the fact that in January 2017 when the FIR was lodged the Respondent No.2 was very much in Pune. There is also no dispute about the fact that the family of the Respondent No.2 own a residential house in Pune. The registration of the FIR is justified on behalf of the Respondent No.2 on the ground that the profile of the Petitioner No.1 on the said BharatMatrimony.com was seen by the Respondent No.2 in Pune as also the factum of the WhatsApp message being received by the Respondent No.2 had also taken place in Pune.

5 Having regard to the facts as aforesaid, the contention of the Learned Counsel appearing on behalf of the Petitioner that Pune police had no jurisdiction to register the FIR cannot be accepted. In the facts of the instant case it cannot be said that no cause of action had arisen within Pune. The judgment of the Apex Court in Y. Abraham Ajith's case (supra) can therefore be distinguished on facts. In so far as the second contention of the Learned

Counsel Mr. Shrivastava that no allegations made against the Petitioner No.3 i.e. the elder brother of the Petitioner No.1, in the charge sheet. It is required to be noted that Section 34 of the Indian Penal Code is also incorporated in the offences concerned. In the facts and circumstances of the instant case the judgment of the Apex Court in Geeta Mehrotra's case (supra) would not aid the Petitioner. We are of the view that since the charge sheet has been filed, it would be open for the Petitioner No.3 to file an application under Section 237 of the Cr.PC for discharge. If any such application is filed, needless to state that the same would be considered on its own merits and in accordance with law.

6 We have restrained ourselves from making detailed observations based on facts lest it affects the Petitioners in prosecuting any application or at the trial. Hence no relief can be granted to the Petitioners. The above Criminal Writ Petition is accordingly dismissed.

[SANDEEP K. SHINDE, J]

[R.M.SAVANT, J]