

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO. 960 OF 2018**

Arun Kumar Verma s/o	
Late Pashupati Nath & Anr.	...Petitioners
Versus	
The State of Maharashtra & Anr.	...Respondents

Mr. A. Sinha, Sr. Advocate i/b Mr. Pritesh A. Burad for the Petitioners

Mrs. P. P. Shinde, A.P.P for the Respondent No. 1-State

Ms. Siddh Vidya a/w Ms. Nirmala Salunkhe for the Respondent No. 2

***CORAM : R. M. SAVANT &
REVATI MOHITE DERE, JJ.
TUESDAY, 31st JULY, 2018***

P.C. :

1 The above Writ Petition has been filed for quashing of the FIR being No. 49 of 2018 registered with the Samta Nagar Police Station, Mumbai, for the offences punishable under Sections 498(A), 406, 354, 509, 506(ii), 323 and 34 of the Indian Penal Code and Section 4 of the Dowry Prohibition Act, 1961.

2 The above Petition has been adjourned from time to time, so as to explore the possibilities of settlement between the parties. We have, in our order dated 17th July 2018, referred to the offer made on behalf of the husband by the learned senior counsel Mr. Sinha to the Respondent No. 2-wife and having regard to the said offer, we had observed that it was not a bonafide offer.

3 It is required to be noted that the husband of the Respondent No. 2 is presently in the U.S. and has been there, we are informed, for the past ten years. Out of the said wedlock, the couple have a child, who is presently about three years old. We are informed that after seeing the child initially, the husband has never shown any intention to see the child and the child is being brought up by the Respondent No.2-wife and her parents in Mumbai. Today also, when we suggested to the learned senior counsel Mr. Sinha to use his good offices to see that a settlement is arrived at between the parties, having regard to the age of the Respondent No. 2 and her husband, the learned Senior Counsel, on instructions, has shown his disinclination and submitted that insofar as the alimony is concerned, that would be fixed by the Family Court, before whom the proceedings for

divorce filed by the husband are pending. We are also informed that though initially an amount of Rs. 25,000/- was being paid to the Respondent No. 2 to take care of her maintenance, the said payment has been stopped on the ground that she has filed an FIR. This, in a way, exemplifies the manner in which the Respondent No. 2 i.e. the wife is sought to be treated.

4 Now coming to the FIR in question, as indicated above, the offence alleged, amongst other offences, is one punishable under Section 498 of the Indian Penal Code. The FIR is replete with the incidents of the ill-treatment to the Respondent No.2-wife as also the alleged refusal of the in-laws i.e. the Petitioners herein to return her jewellery. We need not refer to the allegations in detail at this stage.

5 The quashing of the FIR is *inter alia* sought on the ground of the territorial jurisdiction of the concerned Police Station in Mumbai to register the same as also on the ground that the ingredients of the offences alleged against the Petitioners are conspicuously absent. No doubt, the marriage between the Respondent No. 2 and her husband took place in Patna, her matrimonial house was at Patna but for the reasons which have

been mentioned in the FIR, she had to shift to Mumbai and thereafter as indicated above, the FIR is replete with facts which show the ill-treatment which was meted out to her either through conversation on phone or personally. The allegation is that the dowry amount of Rs. 11 lakhs was paid to the Petitioners by cheque in Mumbai by the father of the Respondent No. 2. Since the Respondent No. 2 is presently residing in Mumbai, it cannot be said that the FIR registered at the Santa Nagar Police Station in Mumbai is without jurisdiction. The submission urged on behalf of the Petitioners that the FIR has been instituted for malafide reasons, is only stated to be rejected.

6 Insofar as the ingredients of the offences alleged against the Petitioners are concerned, *prima facie*, we find that the said ingredients are present and therefore it cannot be said that the Petitioners have been wrongly arraigned as accused.

7 We are informed by the learned A.P.P that the investigation is ongoing. We do not at this stage, deem it appropriate to make elaborate comments on merits, lest, it affects the parties at the trial. However, we do

not deem this a fit case to exercise our writ jurisdiction under Article 226 of the Constitution of India. The Writ Petition is accordingly dismissed.

REVATI MOHITE DERE, J.

R. M. SAVANT, J.