

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.5110 OF 2017

Rathesh Kumar S/o. Chidambaram & Anr.] ... Petitioners

Versus

The State of Maharashtra & Ors.] ... Respondents

Mr. S. A. Jabbar i/b Mr. R. P. Khobragade for Petitioners.

Mrs. A. S. Pai, Addl. P. P. for State.

Mr. O. G. Nagvekar for Respondent Nos.3 and 4.

**CORAM :- R. M. SAVANT &
SARANG V. KOTWAL, JJ.**

DATE :- 19 MARCH, 2018

P. C. :-

1. The above Writ Petition has been filed for quashing of the FIR being C.R.No.251 of 2017 dated 05/07/2017 registered with the Rabale Police Station, Navi Mumbai, for the offence punishable under Section 364A read with Section 34 of the IPC.

2. It appears that the dispute has arisen on account of the business transaction between the husband of the first informant and the Petitioners herein. It seems that the Petitioners herein had booked

a juice processing machine with the husband of the first informant which was supplied to the Petitioners. However, it was found to be defective. The incident has occurred on account of the fact that the husband of the first informant was being pressurized to return the amount of Rs.57 Lakhs allegedly paid by the Petitioners to the husband of the first informant for the said machine. The gravamen of the allegation is that when the husband of the first informant visited Tamil Nadu, he was abducted and detained in a room and was pressurized to return the said amount of Rs.57 Lakhs.

3. Mr. S. A. Jabbar, learned Counsel for the Petitioners, endeavoured to point out to us that the transaction is civil in nature and therefore the ingredients of the offences alleged are absent, that the story as stated in the FIR is unbelievable having regard to the documents on record which is a MOU entered into between the parties whilst the husband of the first informant was in Tamil Nadu. The learned Counsel also relied upon a letter dated 07/07/2017 of the Rabale Police Station addressed to the Senior Police Inspector, Karimangalam Police Station, Tamil Nadu which is annexed at Exh.E, page 35 to the present Petition.

4. Insofar as the MOU on which reliance is placed by the Petitioners, we do not deem it appropriate to express any opinion as regards the manner in which the said MOU has been entered into whilst the husband of the first informant was in Tamil Nadu. However, from the material on record, *prima facie* we do not find that the ingredients of the offence punishable under Section 364A are conspicuously absent, as sought to be contended by the learned Counsel for the Petitioners. We refrain ourselves from making any elaborate comments on merits lest it affects the Petitioners at the trial. However, we do not deem this a fit case to exercise our writ jurisdiction. The Writ Petition is accordingly dismissed.

(SARANG V. KOTWAL, J.)

(R. M. SAVANT, J.)