

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 3502 OF 2019

Mr.Farhan Noor Miya Bharde and others. ... Petitioner.

V/s.

The State of Maharashtra and another. ... Respondents.

Mr.Shadab Kopekar for the Petitioner.

Ms.S.D.Shinde, APP for the Respondent- State.

Ms.Priyanka Chavan for Respondent No.2.

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**NITIN JAMDAR AND
SARANG V. KOTWAL, JJ.**

DATE :

13 December 2021.

P.C. :

The Petitioners have sought to quash the FIR filed by Respondent No.2 under section 498A, 406, 323, 504, 506 read with section 34 of the Indian Penal Code. The Petitioner No.1 was the husband of Respondent No.2. Petitioner Nos.2 and 3 are father-in-law and mother-in-law of Respondent No.2 and Petitioner Nos.4 and 5 are sisters-in-law of Respondent No.2.

2. The Petitioner No.1 and Respondent No.1 got married on 29 May 2015. Respondent No.2 filed FIR on the allegation that

in the marriage the father of Respondent No.2 gave her various gold ornaments as gift. After the marriage, Respondent No.2 went to stay with Petitioner No.1 and the in-laws. Thereafter the Petitioners took all the gold ornaments from Respondent No.2 and demanded Rs.10 lakh. The demands still continued. Respondent No.2 went to Dubai where the Petitioner No.1 was working. Thereafter, the father of Respondent No.2 gave more money. However, the Petitioners demanded Rs.10 lakh as lump sum amount. Respondent No.2 was made to undergo forcible abortion. On her complaint, the Dubai Police called Petitioner No.1 where he stated that he had decided to give divorce to Respondent No.2. The Dubai Police told Respondent No.2 to make complaint before the Police in India as per the Indian laws. The Respondent No.2, thus, narrated the incidents from May 2015 to December 2017 as to the manner in which she was subjected to physical and mental cruelty.

3. The learned counsel for the Petitioners submitted that Respondent No.2 was in Dubai from 2015 to 2017 and the Dubai Police had refused to take complaint of Respondent No.2 and, therefore, it was filed in India. It is submitted that all the ornaments received during the wedding were returned to Respondent No.2 and that she has also signed the Khulanama. The learned counsel for Respondent No.2 submitted that the Petitioner No.1 has not kept any of the promises and has not appeared when he was called by the Kazi at three occasions and the amounts remained unpaid.

4. As regards the FIR disclosing ingredients of offences are concerned, the bare perusal of it shows that ingredients of cognizable offences are made out. The Petitioner has given the details of the dowry and the mental cruelty. She was forced to undergo abortion. The arguments of the Petitioners cannot lead to quash the FIR because to accept the argument would be to evaluate the evidence and declare on the innocence of the Petitioners. This is not the scope of the extra ordinary jurisdiction of this Court to quash the FIR. The extra ordinary jurisdiction of this Court can be exercised only in exceptional circumstances and no such exceptional circumstances are made out in this petition.

5. Accordingly, no relief can be granted to the Petitioners. Writ petition is rejected.

(SARANG V. KOTWAL, J.)

(NITIN JAMDAR, J.)