

JPP

***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL WRIT PETITION NO.4530 OF 2016

with

CRIMINAL APPLICATION NO. 240 OF 2017

Vaibhav M. Ashinkar and Ors.

... Petitioners

V/s.

The State of Maharashtra and Anr.

... Respondents

Ms. Nirmala V. Gopal for the Petitioners

Mr. Akash D. Warang for the Respondent No.2

Mr. J.P. Yagnik, APP for the Respondent - State

***CORAM : NITIN JAMDAR &
SARANG V. KOTWAL, JJ.***

DATE : 20 DECEMBER 2021

P.C. :-

Heard the learned Counsel for the parties.

2. The Petition is filed for the following prayer :-

“(a) Rule be issued and the record and proceedings in C.C. No. 2614/PW/2015 pending on the file of the Additional Metropolitan Magistrate’s 65th Court, at Andheri, Mumbai be called for.”

3. The Petitioner No.1 is the husband of the Respondent No.2, the Petitioner No.2 is the brother of the Petitioner No.1 and the Petitioner No.3 is the mother of the Petitioner No.1 that is the mother-in-law of the Respondent No.2. The Respondent No.2 filed an FIR under Section 498(A), 406, 504 r/w. 34 of the Indian Penal Code on 5 October 2015. The Respondent No.2 stated that after her marriage on 24 May 2014 when she had gone to reside with her husband, she was subjected to mental and physical cruelty and demands for dowry. The statements have been recorded and charge-sheet was filed.

4. The Petitioners have sought quashing of the FIR firstly contending that the statement of the Respondent No.2 if read as it is does not disclose any ingredient of Section 498(A). There is no merit in this contention. The Respondent No.2 has specifically stated that after she had gone to reside with the Petitioners, demands were made for expenses for husband's travel and also for travelling abroad. It was also stated that the harassment was meted out on the ground that whatever ornaments promised at the time of marriage were not given. With these statements it cannot be said that no ingredients are made out. The second contention advanced is that the statement made by the Respondent No.2 are false. This is not the scope of the present proceedings to hold a trial and to declare that theses statements made are untrue. The third contention is that the FIR is a counter-blast because a notice was issued by the

Petitioner No.1 for divorce and thereafter, the FIR is lodged. This is a matter of evidence and trial. It could be argued by the prosecution that till the Petitioner No.1 did not take any drastic step or issuance of notice for divorce, the Respondent No.2 suffered the harassment.

5. Considering the narrow scope of the jurisdiction under Section 482 of the Code of Criminal Procedure and under Article 226 of the Constitution of India to quash the proceedings, it cannot be said that there is any extra-ordinary case is made out. The defence of the Petitioners would be considered at the time of trial.

6. The Writ Petition is accordingly rejected. The Criminal Application also stands disposed of.

SARANG V. KOTWAL, J.

NITIN JAMDAR, J.

JYOTI
PRAKASH
PAWAR

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by JYOTI
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Date: 2021.12.24
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