

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3688 OF 2015

- 1) Swapnil s/o Sadashiv Bande,
Age-28 years, Occu:Labour,

(As against Applicant No.1
Application is dismissed as
withdrawn as per Court's order
dated 20th July 2015),

- 2) Neeta w/o Sadashiv Bande,
Age-47 years, Occu:Household,
- 3) Sadashiv s/o Vishwanath Bande,
Age-53 years, Occu:Private Service,
- 4) Nikhil s/o Sadashiv Bande,
Age-24 years, Occu:Private Service,

Applicant Nos.1 to 4 are at present
R/o-Mondha Naka Road,
Near Balaji Mangal Karyalaya,
Balaji Nagar, Aurangabad.

- 5) Prashant s/o Asaram Kundkar,
Age-30 years, Occu:Labour,
R/o-Ajabnagar, Vijay Colony,
Aurangabad.

...APPLICANTS

VERSUS

- 1) The State of Maharashtra,
Through In charge of Police Station,
Jawahar Nagar, Aurangabad,

- 2) Sunanda w/o Swapnil Bande,
Age-23 years, Occu:Household,
R/o-Gulli No.7, House No.4/32, 482,
Naynagar, Garkheda, Aurangabad.

...RESPONDENTS

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Mr.V.M. Jaware Advocate for Applicant
Nos.2 to 5.

As against Applicant No.1, Application is
dismissed as withdrawn as per Court's order
dated 20th July 2015.

Mr.M.M. Nerlikar A.P.P. for Respondent No.1.
Mr.A.A. Pimpalwadkar Advocarte for Respondent
No.2.

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**CORAM: A.B. CHAUDHARI AND
INDIRA K. JAIN, JJ.**

DATE : 7TH SEPTEMBER, 2015

ORAL ORDER :

1. Rule. Rule made returnable forthwith.
With the consent of the learned counsel for the
parties, taken up for final hearing.

2. So far as Applicant No.1 is concerned, as
per order dated 20th July, 2015, Application is

already dismissed as withdrawn qua Applicant No.1 Swapnil Sadashiv Bande. So far as Applicant Nos. 2 to 4 are concerned, i.e. Neeta Sadashiv Bande, Sadashiv Vishwanath Bande and Nikhil Sadashiv Bande, the counsel for the Applicants requests to allow him to withdraw the Application in respect of Applicant Nos. 2 to 4, with liberty to apply for discharge before the trial Court. Statement is accepted.

3. Heard learned counsel appearing for the respective parties. Perused F.I.R. Upon perusal of the allegations in the F.I.R, so far as Applicant No.5 - Prashant Asaram Kundkar is concerned, we find that no case is made out against him under Section 498-A of the Indian Penal Code, which is only cognizable offence. Other offence under Section 506 read with 34 of Indian Penal Code is non cognizable offence and perusal of the F.I.R. shows that no case is made out against Applicant No.5. In that view of the matter, F.I.R. deserves

to be quashed so far as Applicant No.5 - Prashant Asaram Kundkar is concerned.

4. In that view of the matter, we make following order:-

O R D E R

(I) Criminal Application is allowed to be withdrawn in respect of Applicant Nos.2 to 4, with liberty to file application for discharge in the trial Court, if so advised.

(II) Rule is partly made absolute in terms of prayer clause (B) qua Applicant No.5 - Prashant Asaram Kundkar only.

[INDIRA K. JAIN, J.]

[A.B CHAUDHARI, J.]