

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 484 OF 2021

1. Atul Shivaji Khairnar
Age : 33 Years, Occu: Service
R/o P/1703, Urbano,
Lakeshore Gree, Taloja Road,
Palava.
2. Shivaji Shenpadu Khairnar
Age : 62 Years, Occu: Retired
R/o. Flat No.26, Nav Kartik
Co-operative Society, Opp. Taurus Gym,
Chheda Road, Dombivali East,
Thane.
3. Kavita Shivaji Khairnar
Age : 58 Years, Occu:
R/o. Flat No.26, Nav Kartik
Co-operative Society, Opp. Taurus Gym,
Chheda Road, Dombivali East,
Thane.

... Applicants

Versus

1. The State of Maharashtra
Through its Police Inspector,
Police Station Sarangkheda,
Tq. Shahada, Dist. Nandurbar
2. Megha Atul Khairnar
Age: 27 Years, Occu: Household
R/o. C/o. Kalpana Zipa Borse,
45, Mohanshet Nagar, Dondaicha,
Tq. Shindkheda, Dist. Dhule

... Respondents

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Mr. Y.P. Narwade, Advocate for the Applicants
Mr. Sachin J. Salgare, APP for Respondent No.1 / State
Ms. Pratibha Bharad, Advocate (appointed) for Respondent No.2

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**CORAM : V. K. JADHAV AND
SHRIKANT D. KULKARNI, JJ.**

DATE : 20th AUGUST, 2021

FINAL ORDER :-

1. We have heard the learned counsel for the applicants for some time.
2. Learned counsel for the applicants, on instructions, seeks leave to withdraw the application to the extent of applicant no.1 – Atul Shivaji Khairnar (husband) and applicant no.3 – Kavita Shivaji Khairnar (mother-in-law).
3. Leave granted. Criminal application to the extent of applicant nos.1 and 3 is hereby dismissed as withdrawn.
4. With consent of the parties heard finally, at admission stage.
5. Learned counsel for the applicants submits that though the name of applicant no. 2 – Shivaji Shenpadu Khairnar is mentioned in the F.I.R., however, no allegations have been made against him. Learned counsel submits that even if the entire complaint is admitted as it is, no role is attributed to applicant no.2 and the allegations have been made mainly against co-accused Atul (husband) and

co-accused Kavita (mother-in-law) whose application seeking quashing of the F.I.R. is withdrawn today.

6. Learned counsel for respondent no.2 submits that the applicants are residing together and within a few months after the marriage, respondent no.2 - informant was subjected to cruelty on account of non-fulfillment of certain demands. Learned counsel submits that the case of applicant no. 2 – Shivaji can not be segregated.

7. We have also heard the learned APP for respondent no.1 / State.

8. We have carefully gone through the contents of the complaint. It appears that though the name of applicant no.2 – Shivaji is mentioned in the F.I.R, however, no allegations have been made against him. Thus, continuation of the proceedings against applicant no.2 in the given set of allegations would be an abuse of the Court process. Further, applicant no. 2 – Shivaji is 62 years of age and a retired person. We find that the allegations have been made against Applicant no.1 Atul (husband) and applicant no.3 – Kavita ((mother-in-law), whose application seeking quashing of the F.I.R. came to be withdrawn today. Thus, considering the entire aspect of the case, we proceed to pass the following order :-

ORDER

- (i) The criminal application is allowed in terms of prayer clause 'A' to the extent of applicant no.2 – Shivaji Shenpadu Khairnar.
- (ii) The criminal application is accordingly disposed of.
- (iii) We quantify the legal fees of the Counsel appointed for respondent no.2/original complainant at Rs.2,000/- (Rupees Two thousand only) to be paid by the High Court Legal Services Sub-Committee, Aurangabad.

[SHRIKANT D. KULKARNI]
JUDGE

[V. K. JADHAV]
JUDGE

S.P Rane