

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

947 CRIMINAL APPLICATION NO.932 OF 2021

DNYANESHWAR SURYABHAN KHADKE AND OTHERS
VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. V. B. Jagtap
APP for Respondent no.1- State : Mr. M. M. Nerlikar
Advocate for Respondent no.2 : Mr. A. B. Jagtap

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CORAM : V. K. JADHAV AND

SANDIPKUMAR C. MORE, JJ.

DATED : 5th JANUARY, 2022.

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ORDER :

1. Heard finally with consent at admission stage.
2. The applicants / accused are seeking quashing of the FIR bearing Crime No. 592 of 2020, registered with Sonai Police Station, Taluka Newasa, District Ahmednagar for the offence punishable under Sections 354A, 452, 323, 504 and 506 read with 34 of IPC.

Further, the applicants are also seeking quashing of the proceeding bearing RCC No. 161 of 2021.

3. Learned counsel for the applicants submits that so far as charge under Section 354A is concerned, those allegations have been made against co-accused Dnyaneshwar Khadke, whose

application seeking quashing of the proceedings, came to be withdrawn. So far as the applicants before the court are concerned, they allegedly arrived at the scene of the offence subsequently and abused and threatened the informant. Learned counsel submits that even it is not clear as to when whether these applicants have entered into and they have committed criminal trespass. Since those allegations have been made only against co-accused Dnyaneshwar.

4. Learned counsel for respondent no.2 submits that the names of the applicants are mentioned in the FIR and they have allegedly committed an offence by sharing common intention. In view of the same, there is a triable case against all the applicants and co-accused persons and thus, application is liable to be dismissed.

5. We have also heard the learned APP for respondent no.1-State.

6. On going through the allegations made in the complaint and on perusal of the charge sheet, it appears that the allegations as against these applicants are restricted to the extent of abuses and criminal intimidation. So far as the charge under Section 323, 452 and 354A of IPC are concerned, those allegations have been made only against co-accused Dnyaneshwar, whose application seeking

quashing of the proceeding came to be withdrawn. There are no allegations in the complaint nor it has been revealed during the course of investigation that on prior concert of mind the applicants along with co-accused together, entered in the house of informant and the incident had taken place accordingly. Thus, considering the same, there are no allegations as against these applicants for the offence punishable under Sections 323, 354A and 452 of IPC. So far as charge under Section 504 and 506 are concerned, there are allegations and there is a triable case against both the applicants to that extent. Hence, we proceed to pass the following order.

ORDER

- I) Criminal Application is hereby partly allowed in terms of prayer clause "B " to the extent of applicants for the offence punishable under Sections 323, 354A and 452 of IPC only.
- II) The applicants, however, are liable to face the trial to the extent of charge under Sections 504 and 506 read with 34 of IPC
- II) Criminal Application is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)

(V. K. JADHAV, J.)

vsm/-