

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

928 CRIMINAL APPLICATION NO. 2354 OF 2022

**KHIZAR S/O AKBAR SHAIKH AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Advocate for Applicants : Mr. Rupesh A. Jaiswal
APP for Respondent No.1-State : Mr. R. S. Sanap
Advocate for Respondent No.2 : Mr. Ravindra Nirmal (appointed)

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**CORAM : SMT. ANUJA PRABHUDESSAI AND
R. M. JOSHI, JJ.**

DATE : 28 FEBRUARY 2023

PER COURT :-

1. This is an application under Section 482 of the Code of Criminal Procedure (Cr.PC.) to quash the R.C.C. No. 138/2018 pending on the file of learned JMFC, Shirur Kasar for the offences punishable under Sections 498-A, 325, 506 r/w 34 of the Indian Penal Code (IPC).

2. The aforesaid crime was registered pursuant to the FIR lodged by respondent no.2. The records reveal that marriage of respondent no.2 and applicant no.1 was solemnized on 18.02.2018. Respondent no.2 lodged the FIR on 29.10.2018 alleging that applicant no.1 and his parents, i.e. applicant nos. 2 and 3 herein, treated her well for a month and thereafter they subjected

her to physical and mental cruelty. Based on the allegations made in the FIR, crime came to be registered against these applicants as well as Rahila D/o Akbar Shaikh, sister of applicant no.1. The present applicants as well as said Rahila Shaikh had filed an application bearing Criminal Application No. 3474 of 2018 to quash Crime No. 265 of 2018. The said application was allowed as against co-accused Rahila Shaikh.

3. Learned counsel for the applicants states that subsequent to the said order, respondent no.2 and applicant no.1 have entered into an amicable settlement and that their marriage has been dissolved by *khulanama*. A copy of the *khulanama* has been placed on record.

4. A perusal of the said *khulanama* reveals that respondent no.2 has given her no objection to quash these criminal proceedings as well as the other proceedings filed against applicant no.1 and his family members. It may be mentioned here that respondent no.2 had not remained present despite due service. We were therefore constrained to appoint an Advocate to espouse the cause of respondent no.2. The learned appointed Advocate for respondent no.2 states that respondent no.2 is not responding to the phone calls. Learned counsel for the applicant also has made a statement that respondent no.2 has remarried on 24.01.2022 and she does not wish to appear before the Court.

5. Considering that the parties have settled the matrimonial dispute amicably and that respondent no.2 has accorded her no objection to quash the FIR as well as the criminal proceedings arising therefrom, in our considered view, this is a fit case to exercise the inherent powers under Section 482 of Cr.P.C. Hence, the application is allowed in terms of prayer clause (B). Consequently, the R.C.C. No. 138/2018 pending on the file of learned JMFC, Shirur Kasar is quashed *qua* the applicants.

6. The fees of the appointed Advocate is quantified at Rs.6,000/-, to be paid by the High Court Legal Services Authority, Sub-Committee, Aurangabad.

(R. M. JOSHI, J.)

(SMT. ANUJA PRABHUDESSAI, J.)

VRE