

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

**CRIMINAL APPLICATION NO. 1794 OF 2013
WITH
CRIMINAL APPLICATION NO. 4272 OF 2014
IN
CRIMINAL APPLICATION NO. 1794 OF 2013**

- 1 Kunda Nandkumar Mirwankar ... **Applicant**
Age 68 years, Occu: Housewife (Orig. Accused)
2. Nandkumar Ramkrushan Mirwankar
Age 71 years, Occu: Retired
Both r/o B-46, Anand Nagar,
Highway Darshan, Raghunath
Nagar, Thane (West)

VERSUS

1. The State of Maharashtra
2. Dr. Mrs. Sunita Rahul Mirwankar
Age 42 years, Occu: Medical
Practitioner,
R/o At Post Indira Nagar,
Shrirampur, Dist. Ahmednagar.

... Respondents

Mr. S. J. Salunke, Advocate for the applicants,
Mr. R. V. Dasalkar, APP for the State.
Mr. Dilip N. Bankar, Advocate for respondent No.2.

**WITH
CRIMINAL APPLICATION NO. 2129 OF 2014
IN
CRIMINAL APPLICATION NO. 1794 OF 2013**

Dr. Mrs. Sunita Rahul Mirwankar ... **Applicant**
Age 42 years, Occu: Medical (Orig.
Practitioner, complainant)
R/o At Post Indira Nagar,
Shrirampur, Dist. Ahmednagar.

VERSUS

- 1 Kunda Nandkumar Mirwankar
Age 68 years, Occu: Housewife
2. Nandkumar Ramkrushan Mirwankar
Age 71 years, Occu: Retired
Both r/o B-46, Anand Nagar,
Highway Darshan, Raghunath
Nagar, Thane (West)
3. The State of Maharashtra

Mr. Dilip N. Bankar, Advocate for Applicant/complainant
Mr. S. J. Salunke, Advocate for the respondents/accused
Mr. R. V. Dasalkar, APP for the State.

CORAM : T. V. NALAWADE AND
K. L. WADANE, JJ.

DATE: : 14th June, 2018.

JUDGMENT (Per K. L. Wadane, J.):

1. The present applicants/original accused Nos. 2 and 3 have challenged the first information report bearing Crime No. 77 of 2001 and Charge sheet bearing criminal Case No. 146 of 2001 pending before the J.M.F.C. Shrirampur on the ground that there was amicable settlement between respondent No.2/original complainant and her husband Rahul.

2. Brief facts of the case may be stated as follows:

(1) That respondent No.2 Sunita is wife of Rahul/

original accused No.1. Accused Nos. 2 and 3 i.e. present applicants are his parents Rahul. Accused Nos. 4 and 5 are the daughters of accused Nos. 2 and 3.

- (2) Respondent No.2 lodged the first information report against the accused persons alleging that they were ill-treating her on the ground of illegal demand. On the basis of first information report, crime is registered against the accused, as referred above for the offence punishable under section 498(A), 323, 504, 506 read with section 34 of the Indian Penal Code.
- (3) It is submitted that the applicants accused were granted anticipatory bail by this court in connection with the aforesaid FIR. Subsequently, charge sheet was filed in the court on 31st July,2001, pursuant to the FIR before the learned Judicial Magistrate, First Class, Shrirampur. During pendency of the criminal case, the applicants/accused and respondent No.2/ original complainant have resolved their differences and settled the matrimonial dispute. Moreover,

respondent no.2 resumed cohabitation with her husband Rahul and now the couple is living happily together. Respondent No.2 has forgiven the applicants and does not desire that the applicants should be punished. Cordial and harmonious relationships have been restored and both sides have acted in the spirit of forgive and forget. It is further contended that now respondent no.2 would have no objection, if the First Information Report and criminal proceedings are quashed. Hence this application.

3. We have heard Mr. S. J. Salunke, learned counsel for the applicants/original accused, Mr.R. V. Dasalkar, APP for the State and Mr. Dilip N. Bankar, Advocate for respondent No.2/original complainant. Perused the contents of the first information report, statements of witnesses and affidavit in reply of the complainant.

4. Perusal of the affidavit of respondent no.2, it appears that as a part of strategy to obviate the trial of the case, Dr. Rahul came with the proposal for settlement and to lead amicable life. It was given to understand that the properties of his

family/applicants would also be transferred in the name of respondent no.2 as well the kids. Therefore, in the interest of the future life and well being of the kids, respondent no.2/ complainant accepted the said proposal and consented for quashing the criminal proceeding against the Dr. Rahul and in that view of the matter, the criminal proceedings have been quashed to the extent of Dr. Rahul by this Court. Sisters of Rahul were discharged considering their family life with their respective husbands.

5. Respondent No.2 further states that inspite of the concession shown by her in respect of Dr. Rahul, as soon he was relieved from the said offences by way of quashing he same, he changed his attitude. He also induced the respondent no.2 to give up the heavy amount of arrears of maintenance. Respondent No.2 also gave up the same but that also could not change his behaviour. He continued with his habit of drinking. He also misbehaved at home. When he was working in the Hospital of Saibaba Sansthan, Shirdi, for his such behaviour, number of notices were also issued to him.

6. On perusal of the aforesaid contents of the

affidavit, it appears that after compromise and after quashment of the criminal proceedings against husband of respondent No.2 and after discharge of Accused Nos. 4 and 5 sister-in-laws, the accused, particularly husband Rahul changed his mind and therefore, contentions of the applicant that there was amicable settlement between respondent No.2 and her husband appears to be incorrect. What are the circumstances in which the matter was compromised between respondent no.2 and her husband Rahul have been explained by way of filing affidavit in reply. Prima facie, it appears from the record that after quashment of the criminal proceedings, her husband Rahul again has changed his mind and he did not keep his words. Looking to the next aspect and on perusal of the contents of the first information report, there are series of instances of ill-treatment by the accused persons. From the statement of witnesses also, it is clear that there was ill-treatment by the accused persons to the complainant, more particularly mentioned in their statements. Few instances are quoted here.

7. Respondent No.2 married with Rahul on 06.06.1996. After marriage when she came to reside

with accused persons at Thane, at that time, the applicant No.2 Nandkumar, Accused Nos. 4 and 5 Aparna and Swati have insulted respondent no.2 on the ground that no dowry was given in the marriage. After marriage, when they were residing at Kamgar Hospital, at that time, Accused No.2 Kundabai, Accused Nos. 4 and 5 Aparna and Swati used to come there and reside there for 15-15 days. During that period, they were causing physical and mental harassment to the complainant by saying that she was not knowing cooking. It is further specifically alleged in the first information report that mother-in-law and sister-in laws were beating the complainant and father-in-law Nandkumar was abusing her in very filthy language and it has happened repeatedly.

8. There are series of instances about the ill-treatment given to the complainant by the accused from time to time since beginning till 13.04.2001, that can be seen from the contents of the first information report. On perusal of the same it appears that there are specific allegations of ill-treatment given to respondent no.2 by each of the accused persons with particular act and its nature. Therefore, it

cannot be said that the accusations levelled against the accused persons are vague and groundless. On the contrary allegations against each of the applicants are specific. In such circumstance, the first information report and the charge-sheet cannot be quashed. Therefore the application is liable to be dismissed and it is accordingly dismissed.

9. Other applications are also stand disposed of.

10. Interim relief is vacated.

(K. L. WADANE, J.)

(T. V. NALAWADE, J.)

JPC