

IN THE HIGH COURT OF BOMBAY AT GOA**CRIMINAL WRIT PETITION NO. 11 OF 2015**

Sanathan Sanstha,
A Public Charitable Trust,
Registered with the Sub
Registrar, Ponda under No.
No.1/IV/2, Ponda, Goa
having its office at
Sanatan Ashram,
Ramnathi, Ponda, Goa,
Through its Managing
Trustee Shri Virendra
Pandurang Marathe .. Petitioner

Versus

1. Dnyanesh Maharao,
Editor, Chitralkha,
Adult, Indian Inhabitant,
having his office at 22,
Andheri Industrial Estate,
Veera Desai Road,
Andheri (West) Mumbai -
400053.
2. Chitralkha, Owner of Marathi
Weekly Chitralkha,
having office at 22,
Andheri Industrial Estate,
Veera Desai Road,
Andheri (West) Mumbai-
400053.
3. Mr. Mitrajeet Bhattacharya,
Publisher and Printer of
'Chitralkha' having
Office at Chitralkha
House, Oshivara, Andheri
(West) Mumbai-400053.
4. Sandhya Nare Pawar, C/o
Chitralkha, Mumbai- 400053.

5. Mr. Mukund Kule, C/o
Chitrarekha, 22, Andheri
Industrial Estate, Veera
Desai Road, Andheri
(West) Mumbai-400053.
6. Mr. Shyam Manav,
C/o. Chitrarekha
22, Andheri Industrial Estate,
Veera Desai Road,
Andheri (West) Mumbai-
400053.
7. Mr. Bhanudas Kahnu Adbhai,
Adult, Residing at Gokul Colony,
Rahuri, Tal. Rahuri, Dist. Ahmednagar
(Maharashtra)
8. The State Goa
Through the Public Prosecutor,
Panaji, Goa. .. Respondents

Mr. Nagesh Takbhate, Advocate for the petitioner.

Mr. Thalmann Pradeep Pereira, Advocate for the respondent nos.
1 to 6.

Mr. G. Naik, Advocate for the respondent no.7.

CORAM :- C. V. BHADANG, J.

Date :- 17th June, 2015.

ORAL JUDGMENT :

Rule. Rule made returnable forthwith. Heard by
consent of the learned Counsel for the parties.

2. By this petition, the petitioner, which is a Trust and the original complainant, is challenging the order dated 12/12/2014 passed by the learned Judicial Magistrate, First Class, Panaji in Criminal Case No.131/2008/B. By the impugned order, the learned Magistrate has dismissed the complaint filed by the petitioner under Sections 500, 501, 502 read with Section 34 of I.P.C. for non-prosecution.

3. It is submitted on behalf of the petitioner that on account of some difficulty faced by the Counsel for the petitioner/complainant, the Counsel could not remain present. It is submitted that the petitioner/complainant was informed that the Counsel would be seeking time. In such circumstances, there was no appearance on behalf of the petitioner, which has resulted into passing of the impugned order.

4. It is submitted on behalf of the respondents that the petitioner has not made out any case for non-appearance of the Managing Trustee of the petitioner and in the absence of the same, the impugned order cannot be interfered with.

5. On hearing the learned Counsel for the parties, it

appears that the Counsel for the petitioner was in some difficulty and as it was informed to the Managing Trustee of the petitioner that the Counsel would be seeking time, there was no appearance of the Managing Trustee also. In such circumstances and in the interest of justice, the impugned order will have to be set aside and the complaint restored to file, subject to appropriate costs. In such circumstances, the following order is passed :

ORDER

- (i) Rule is made absolute in terms of prayer clause (a), subject to the petitioner paying costs of Rs.2,000/- in favour of the Goa State Legal Services Authority, Panaji, within a period of one week from today.
- (ii) The parties to appear before the learned Magistrate on 07/07/2015 at 2.30 p.m.
- (iii) The petition is disposed of in the aforesaid terms, with no order as to costs.

C. V. BHADANG, J.

SMA