

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL REVISION APPLICATION NO. 15 OF 2015

MR. AVELINO D'SOUZA.

... Petitioner

Versus

STATE OF GOA THROUGH PUBLIC
PROSECUTOR.

... Respondent

Mr. Shivan Desai, Advocate for the petitioner.

Mr. S. R. Rivankar, Public Prosecutor for the respondent.

Coram:- C. V. BHADANG, J.

Date:- 17th March, 2015

P.C.:

Heard Mr. Dessai, learned Counsel appearing on behalf of the applicant and Mr. Rivankar, learned Public Prosecutor appearing on behalf of the respondent - State.

2. The applicant is the original accused no.2 before the Children's Court. The applicant is taking exception to the order dated 09/12/2014 passed by the President, Children's Court at Panaji whereby the Children's Court has directed that the charge be framed against the applicant for the offence under Section 8(4), punishable under Section 8(9) of the Goa Children's Act, 2003.

3. Briefly stated it is case of the prosecution that on 12/02/2012 at about 19.05 hours, a complaint was lodged by the Centre Co-ordinator, Caritas Goa, Childline (North Collab), to the effect that

between 02/02/2012 till 16.00 hours of 12/02/2012, the original accused no.1 (wife of the present applicant) had employed a minor victim girl, aged about 10 years, native of orissa, as a servant in her hotel. It appears that apart from the present applicant and his wife there are three other accused who have also been charge sheeted with the allegations that they were instrumental in securing the minor girl for labour in breach of the provisions of the Goa Children's Act, 2003.

The Children's Court by the impugned order dated 09/12/2014 has inter alia noted the statement of one Parvati Rathod, the gardener in the said Hotel to the effect that the present applicant who used to stay with the accused no.1 in the same room where the minor victim was made to sleep in the nights and sometimes even in absence of the accused no.1, the accused no.2 used to stay during night time in the same room and that witness saw the minor girl crying for undisclosed reasons.

4. It is submitted on behalf of the applicant that there is nothing in the complaint/statement of the victim which indicates any complexity so far as the present applicant is concerned. It is stated that the prosecution is relying on the registration before the Panchayat in which the hotel/residence is standing in the name of the present applicant. It is submitted that this would not be sufficient to frame the charge.

5. The learned Counsel has also referred to the provisions of Section

8(4) of the Goa Children's Act in order to submit that there is no force employed by the applicant in keeping the minor in the hotel/residence.

6. The learned Public Prosecutor has supported the impugned order. It is submitted that at this stage a detailed appreciation of the material is neither contemplated nor justified. However, as rightly found, prima facie material is available against the applicant under Section 8(4) of the Goa Children's Act, 2003.

7. Section 8(4) of Goa Children's Act reads as under:

"8(4) [No person shall reside with or keep with him, either wholly or partly, one or more children who are not related to him by blood, unless prior permission has been obtained by him from the Director after furnishing due information to the Director in the prescribed form. It shall be the responsibility of such person, desirous to reside with or keep child or children not related to him by blood, to inform the Director and to obtain prior written permission from the Director for doing so.]"

8. I have considered the rival circumstances and the submissions made. It is trite that at the stage of framing a charge, the Court is not to enter into a detailed inquiry into the allegations. As noticed earlier there is statement of gardener which has been considered by the Children's Court in holding that the charge under Section 8(4)

punishable under Section 8(9) of the Goa Children's Act needs to be framed against the applicant. I do not find that the applicant has been able to point out any error in the exercise of the jurisdiction by the learned President of Children's Court so as to warrant interference in the limited revision jurisdiction of this Court.

9. In the result, the Revision application is dismissed.

C. V. BHADANG, J.

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