

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 71 OF 2015

State of Goa,
Through Margao Police Station,
and Superintendent of Police,
South Goa District,
Margao Goa.

... Petitioner

V e r s u s

Mr. Atish Mandrekar,
S/o Late Premanand L. Mandrekar,
Major in age,
Occupation Advocate,
r/o H.No.549/C,
Vodlem Bhat,
Taleigao, Tiswadi Goa.

... Respondents

Mr. Mahesh Amonkar, Addl. Public Prosecutor for the petitioner.

Mr. C. A. Ferreira, Advocate for the respondent.

**Coram:- F. M. REIS &
C. V. BHADANG, JJ.**

Date:- 1st December, 2015

ORAL JUDGMENT (Per F. M. Reis, J)

Heard Mr. M. Amonkar, learned Addl. Public Prosecutor
appearing for the petitioner and Mr. C. A. Ferreira, learned counsel
appearing for the respondent.

2. Rule. Heard forthwith with consent of the learned
counsel.

3. Mr. C. A. Ferreira, learned counsel waives service on behalf of the respondent.

4. During the course of the hearing of the above petition, Mr. C. A. Ferreira, learned counsel appearing for the respondent has pointed out that in the meanwhile the Division Bench of this Court in the judgment dated 21.10.2015 passed in **Criminal Writ Petition No. 159 of 2014** in the case of **Avinash Trimbakrao Dhondage V/s The State of Maharashtra and anr.**, while examining as to whether a revision would lie challenging the order under Section 156(3) of the Criminal Procedure Code, has taken a view that such revision is maintainable as such order is not an interlocutory order. The learned counsel further points out that the petitioner had in fact preferred a revision challenging the impugned order dated 26.05.2015 before the learned Sessions Judge, which was thereafter withdrawn on the assumption that such revision would not lie taking note of the judgment of the learned Single Judge of this Court.

5. Considering the said judgment dated 21.10.2015 passed by the Division Bench of this Court in the case of **Avinash Trimbakrao Dhondage** (supra), we find that the question of invoking writ jurisdiction when it is not disputed that the petitioners have an efficacious alternate remedy by filing a revision challenging the order dated 26.05.2015 passed under Section 156(3) of the Criminal

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Procedure Code would not at all be justified. In such circumstances, we dispose of the above Writ Petition with liberty to the petitioner to challenge the impugned order dated 26.05.2015 by preferring a revision before the learned Sessions Judge in view of the judgment of the learned Division Bench of this Court in the case of **Avinash Trimbakrao Dhondage** (supra). In the meanwhile, the interim order passed by this Court dated 25.06.2015 shall continue to operate for another four weeks from today. All contentions of both the parties on merits are left open. Rule stands disposed of accordingly.

C. V. BHADANG, J.

F. M. REIS, J.

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