

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 663 OF 2014

MR. WESLEY D'SOUZA REP BY MS.
VANESSA D'SOUZA.

... Petitioner

Versus

MRS. SONALI DA COSTA FRIAS.

... Respondent

Mr. Joaquim Godinho, Advocate for the Petitioner.

Mr. Joseph Vaz, Advocate for Respondent

Coram:- M. S. SANKLECHA, J.

Date:- 24th March, 2015

ORAL ORDER:

This petition under Article 227 of the Constitution of India challenges the order dated 16/8/2014 passed by the Civil Judge, Senior Division, at Mapusa-Goa. The impugned order allows the application of the respondents to produce secondary evidence of documents under Section 65 of the Indian Evidence Act, 1872.

2. The grievance of the petitioner is that the secondary evidence allowed to be produced by the impugned order are the following documents:

- a) Police complaint dated 19/5/2006, addressed by the Respondent to the Police Incharge, Calangute Police Station;
- b) Police complaint dated 25/5/2007, addressed by the Respondent to

the Police Inspector, Mapusa, Police Station;

c) Police complaint dated 25/5/2007, addressed by the Respondent to the Police Inspector, Women's Wing, Panaji-Goa;

d) Letter dated 28/2/2007 addressed by the Respondent, to the Police Inspector, Mapusa Police Station; and

e) Letter dated 13/6/2007 addressed by the Respondent, to the Director General of Police, Panaji Police station, Panaji-Goa.

This without following the mandatory requirement of issuing the notice to produce the original of such documents in possession of a third party. Besides, it is submitted that the impugned order gives no reasons while allowing the application to produce secondary evidence of the documents referred to herein above.

3. After the matter was heard for sometime, it was agreed that the respondent would call upon the recipients of the above documents to produce the original. However, in case the Police Inspector/Police Station concerned does not produce the original document, the respondent would be entitled to produce the secondary evidence of the aforesaid documents. In view of the above, the impugned order dated 16/8/2014 is set aside.

4. I am informed that the suit is listed for hearing on 27/3/2015, at which time Mr. Vaz, learned counsel appearing for the respondent states that he would make an appropriate application before the Court for production of aforementioned documents.

5. The writ petition is disposed of in above terms. No order as to costs.

M. S. SANKLECHA, J.

ap/-