

IN THE HIGH COURT OF BOMBAY AT GOA**CRIMINAL WRIT PETITION NO.40 of 2016**

Shabbir @ Noor Ahmed Munshi
s/o Abdul Haque Munshi,
37 years of age, married,
Businessman, R/at Flat No.A,
Reliance Carl Bebiu Apartment,
Alto-Betim, Bardez, Goa,
Presently lodged in Judicial
Custody

.. Petitioner

Versus

1. Police Inspector,
Porvorim Police Station,
Goa Police, Porvorim,
Bardez, Goa
2. State
Through PP
High Court of Bombay at Panaji .. Respondents

Mr. Arun Bras De Sa, Advocate for the petitioner.

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

CORAM :- S. B. SHUKRE, J.

Date : 9th March, 2016

ORAL JUDGMENT :

Heard. Rule. Rule, made returnable forthwith. Heard finally by consent.

2. By this writ petition, transfer of Criminal Miscellaneous Application No.235/2015 has been sought to the

Children's Court for the State of Goa at Panaji so that the application can also be tried along with Special Case No.28/2014 one after another.

3. By the said application, the petitioner has sought a direction to the Police Station to register complaint of the applicant for the offences punishable under Section 307, 323, 504, 506(II), 441 read with Section 34 of Indian Penal Code (IPC, for short) and investigate the complaint. However, as pointed out by the learned Public Prosecutor for the State, the request is premature as at this stage there is no criminal case which is required to be tried in accordance with the provisions of the Code of Criminal Procedure and what has been sought is only an order of the concerned Magistrate under Section 156(3) of the Code of Criminal Procedure.

4. The request as made by the petitioner can be considered only when the investigation is completed, if any, and chargesheet, if any, is filed under Section 173 of the Code of Criminal Procedure. Therefore, I do not think that the direction as sought for in the instant case can be issued by this Court at this stage. However, considering the fact that there is also a counter case arising out of the same transaction, which is pending for trial

in Special Case no.28/2014, it would be appropriate that the Criminal Miscellaneous Application No.235/2015 is disposed of in accordance with law as expeditiously as possible, lest there be any prejudice being caused to the defence of the petitioner.

5. In the result, the Writ Petition is partly allowed only to the extent of directing the concerned Judicial Magistrate, First Class to dispose of Criminal Miscellaneous Application No.235/2015 at the earliest in accordance with law. The prayer regarding transfer of Criminal Miscellaneous Application No.235/2015 is rejected. However, expeditious disposal of Criminal Miscellaneous Application No.235/2015 is granted and it is directed that the said application be disposed of on its own merits and in accordance with law within six weeks from the date of the order.

6. Rule is made absolute in the above terms. No costs.

S. B. SHUKRE, J.

SMA