

**IN THE HIGH COURT OF BOMBAY AT GOA**

**CRIMINAL MISC. APPLICATION NO. 89 OF 2016**

**IN**

**CRIMINAL WRIT PETITION NO. 22 OF 2015**

MR. NAZEEM A. K. AND 8 ORS.,

... Applicants

Versus

STATE OF GOA THROUGH POLICE  
INSPECTOR, CUNCOLIM POLICE STATION  
AND ANR.,

... Respondents

Mr. Vishnuprasad A. Lawande, Advocate for the applicants.  
Mr. S. R. Rivonkar, Public Prosecutor for the respondent No.1.  
Mr. N. Pai, Advocate for the respondent No.2.

Coram:- F. M. REIS &  
K. L. WADANE, JJ.

Date:- 6th May, 2016

P.C.:

Heard Mr. Vishnuprasad A. Lawande, learned Counsel appearing for the applicants, Mr. S. R. Rivonkar, learned Public Prosecutor appearing for the respondent No.1 and Mr. N. Pai, learned Counsel appearing for the respondent No.2.

2. This is an application for speaking to the minutes of the Order dated 22nd March, 2016, passed in Criminal Writ Petition No.22 of 2015, which came to be disposed of.

3. Mr. Lawande, learned Counsel appearing for the applicants submits that there were nine partners of the concerned partnership

firm of the petitioners, but were not directly or indirectly involved in the day today business of such firm and, as such, the question of making them accused in the complaint lodged by the respondent No.2 filed before the Judicial Magistrate, First Class, Margao would not arise, as there is no material to suggest that they were in any way involved in the alleged activity of the concerned petitioners. The learned Counsel further points out that the applicants have also produced an order passed by the Apex Court dated 6th April, 2015 whereby the respondents were directed not to take penal action against the petitioners. The learned Counsel further points out that there was no infringement committed by the petitioners with regard to the hazardous waste and, as such, the charge-sheet itself deserves to be quashed and set aside. The learned Counsel further points that all the correspondence produced to the effect that the petitioners were not involved in any of the alleged activities have also not been considered whilst passing the impugned Order.

4. Learned Counsel appearing for the respondents do not dispute that such arguments were in fact advanced by the learned Counsel appearing for the petitioners.

5. Having heard the learned Counsel for the respective parties, we find that the said arguments were part of the submissions advanced by the learned Counsel appearing for the petitioners, but, however, considering that we were exercising the extraordinary

jurisdiction under Article 226 and 227 of the Constitution of India, we found that on the basis of other material on record, the said documents were not relevant to be considered at this stage in the petition filed by the petitioners. But, however, the petitioners if so advised are at liberty to file appropriate application before the Judicial Magistrate, First Class, Margao for seeking discharge and in case such an application is filed, the learned Magistrate shall consider it on its own merits after hearing the parties in accordance with law. Needless to say, any observations in the said order dated 22/3/2016, shall not influence the learned Magistrate while considering such an application. The Magistrate may also examine the said contentions while dealing with such an application.

6. With these observations, the application stands disposed of accordingly.

K. L. WADANE, J.

F. M. REIS, J.

ssm.