

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL REVISION APPLICATION NO. 38 OF 2016

STATE OF GOA, THR. PERNEM POLICE
STATION.

... Petitioner

Versus

SMT. VANDANA SHIRODKAR.

... Respondent

Shri Mahesh Amonkar, Additional Public Prosecutor for the
Applicant.

Shri Deepak Gaonkar, Advocate for the Respondent.

Coram:- C. V. BHADANG, J.

Date:- 24th October, 2016

ORAL ORDER:

Heard Shri Amonkar, the learned Additional Public Prosecutor for the applicant and Shri Gaonkar, the learned Counsel for the respondent.

2. This criminal revision application is directed against the order dated 12.02.2016 passed by the Children's Court at Panaji in Special Case No. 116/2014. By the impugned order, the learned Children's Court has discharged the respondent from the offence punishable under Section 227 of Cr.P.C. and Section 8(2) read with Section 4(12) of the Goa Children's Act, 2003 (the Act, for short).

3. The respondent is working as headmistress in the Government Primary School at Ibrampur, Pernem, Goa. On 03.08.2013, between 8:00 hours to 13:45 hours, the respondent is alleged to have assaulted

a student of class-II, who was aged six years with a wooden ruler on his left leg, thereby causing simple injuries. A complaint was lodged by the father of the student, on the basis of which, investigation was carried out and charge sheet was filed. The prosecution case, as disclosed from the charge sheet, was that at around 11:30 hours, on the relevant date, after the recess, the students from Class-I to IV were instructed to remain present in Class-IV. Accordingly, the students gathered alongwith three teachers. At that time, Babaji Mestri, who is a teacher, reported to the respondent that the victim and two more boys from his class were disturbing the other students by their acts. The respondent called them and advised them not to repeat such act and hit the victim twice on his legs. The respondent also punished the other four students.

4. The Children's Court after noticing Section 4(12) of the Act has found that under the said provision, 'corporal punishment', in all its forms, is banned. An act of contravention of this provision is punishable under Section 4(15) of the said Act and has to be dealt with by the competent authority and is punishable with fine to the extent of Rs.50,000/-. In the present case, the competent authority as defined under Section 2(i) of the Act (Secretary to the Government incharge of the Department of the Women and Child Development), has taken action and fine of Rs.50,000/- was imposed on the respondent, which has been deposited. The learned Children's Court has found in paragraph 21 that any person, who has once been fined

by the competent authority, cannot be tried again as provided under Section 300 of Cr.P.C. Thus, the respondent has been discharged on the ground that there cannot be double jeopardy.

5. On hearing the learned Additional Public Prosecutor and the learned Counsel for the respondent, I do not find that any case for interference is made out. For the present purpose, it is not in dispute that the act of the respondent would fall within the purview of the corporal punishment under Section 4(12) of the said Act. Section 4(15) makes it amply clear that any such contravention has to be dealt with by the competent authority only and shall be punishable with fine to the extent of Rs.50,000/-. The competent authority in this case has infact dealt with the respondent and has imposed fine, which is deposited.

6. Shri Amonkar, the learned Additional Public Prosecutor submits that in a hypothetical situation, where there is an act of severe punishment, which would also amount to an offence under the Indian Penal Code and for that matter if, in a given case, it results in grievous hurt or death of a boy, the accused cannot get away with fine of Rs.50,000/-.

7. For the present purpose, the consideration has to be confined to the facts and circumstances of the present case and the nature of the allegation against the respondent. Thus, without laying down any

precedent, as to whether in such a case, the only punishment can be under Section 4(15) of the said Act, I find that having regard to the nature of the allegations made in this case, the view taken by the Children's Court is a plausible view and would not require interference in the limited jurisdiction available to this Court. It is trite that while exercising the revisional jurisdiction, this Court is not expected to interfere, unless and until the view taken by the Court below is perverse. I have carefully considered the rival circumstances and the submissions made and I do not find that any case for interference is made. In the result, the criminal revision application is dismissed.

C. V. BHADANG, J.

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