

IN THE HIGH COURT OF BOMBAY AT GOA**CRIMINAL MISCELLANEOUS APPLICATION (MAIN) NO.174 OF 2016**

- 1 Dinesh Pundalik Mainikar,
major of age, H. No.163/1,
Pethwada, Kudne, Sakhali,
Goa.
- 2 Siddesh Nagesh Gawas,
major of age, Bharoniwada,
Navelim, Bicholim, Goa.
- 3 Sadashiv Nagesh Gauns,
major of age, Durigwada,
Navelim, Bicholim, Goa.
- 4 Anand Shankar Gauns
major of age, Bharoniwada,
Navelim, Bicholim, Goa.
- 5 Sachin Shantaram Naik,
major of age, resident of
Near Mahadev Temple,
Malem, Sakorda, Goa. ... Applicants

Versus

- 1 The State of Goa,
through Police Inspector,
Bicholim Police Station,
Bicholim, Goa.
- 2 Corporation Bank,
with head office at Pandeshwar,
Mangaladevi Temple Road,
Post Box No.88, Mangalore,
Karnataka, 575001 and office /
branch in Goa at Dr. Atmaram
Borkar Road, Opposite
Municipal Gardens, Panjim, Goa ... Respondents
- 403 001.

Shri Ryan Menezes, Advocate for the Applicant.

Shri S. R. Rivankar, Public Prosecutor for the respondent no.1.

Ms. P. Kamat, Advocate for the respondent no.2.

CORAM : F.M.REIS &

NUTAN D.SARDESSAI, JJ.

DATED : 23rd AUGUST,2016.

ORAL ORDER: (PER NUTAN D. SARDESSAI, J.)

Heard Shri Ryan Menezes, learned Advocate for the applicants, Shri S. R. Rivankar, learned Public Prosecutor for the respondent no.1 and Ms. P. Kamat, learned Advocate for the respondent no.2.

2. Shri R. Menezes, learned Advocate for the applicants sought the intervention of this Court in exercise of its inherent powers under Section 482 of the Code of Criminal Procedure to quash the criminal proceedings brought against them by the respondent no.2. It was briefly their case that they were workmen of a factory of Amiantit Fiberglass Industries India Pvt. Ltd., whose operations were suddenly stopped and its factory came to be closed, leaving substantial unpaid debts to the various parties/ entities, including the petitioners and other workmen working in the said factory

from its inception upto the time it suddenly illegally stopped operations sometime in 2013, without prior permission of the State Government and without settling their dues. It was his further contention that the respondent no.2, a secured creditor took recourse to the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act (SARFAESI) and took physical possession of the factory under the Order dated 16/12/2013 of the District Magistrate, North Goa and also intervened in the petitions for winding up of the said factory.

3. Shri R. Menezes, learned Advocate for the applicants further contended that the respondent no.2 sold the hypothecated plant and machinery of the factory by public auction which was sought to be lifted/ removed in pursuance thereof. The workmen of the factory had made various efforts to get paid their wages due and unpaid from as far back as June,2013 who had also made a representation to the Office of the Commissioner, Labour and Employment, Government of Goa who was pleased to direct the payment of their wages from the proceeds of sale of assets of the factory and intimated to the respondent no.2. The case of the respondent no.2 was that the workmen represented by the Union being a

group of 120 members alongwith the petitioner had entered and trespassed in the premises of the factory, drove out the security personnel and threatened them with dire consequences as stated in the complaint dated 06/11/2014 filed by the respondent no.2 with the Bicholim Police Station, which came to be registered as F.I.R. No.243 of 2014. A chargesheet too was filed after the investigation bearing the Criminal Case No.28/S/2015/B before the Judicial Magistrate, First Class at Bicholim for the offences punishable under Sections 143, 447, 341, 506 r/w.149 of the I.P.C.

4. Shri R. Menezes, learned Advocate for the applicants contented that the applicants and the respondent no.2 had worked out the controversy between them and therefore it was necessary to bring an end to the pending criminal proceedings. Though the offences under Sections 447, 506 and 341 of the I.P.C. were compoundable, the offence under Section 143 of the I.P.C. was not compoundable under Section 320 of the Cr.P.C. and therefore the intervention of this Court was necessary invoking its power under Section 482 of Cr. P.C. The continuation of the criminal proceedings would be an exercise in fruitility and justice in the present case having regard to the peculiar facts in attendance, which

demands that the disputes between the parties were to be put to an end and therefore to quash the Criminal Proceedings in exercise of the inherent powers of this Court under Section 482 of Cr. P.C.

5. Shri S.R. Rivankar, learned Public Prosecutor for the respondent no.1 had no objection and even otherwise Ms. P. Kamat, learned Advocate for the respondent no.2 on instructions submitted that she had no objection to the quashing of the F.I.R.

6. In the circumstances, therefore having regard to the fact that no purpose would be achieved by continuing with the proceedings when the parties have amicably settled the dispute between themselves and restored normally in their relations inter se between them, we find it a fit case to order the proceedings to be quashed and accordingly invoke the powers under Section 482 of Cr.P.C. quashing the proceedings.

NUTAN D. SARDESSAI, J.

F. M. REIS, J.