

IN THE HIGH COURT OF BOMBAY AT GOA

CIVIL APPLICATION (REVIEW) NO. 20 OF 2015

IN

CRIMINAL WRIT PETITION NO. 128 OF 2013

MR.KASHINATH JAIRAM SHETYE AND 2
ORS.,

... Applicants

Versus

SHRI JITENDRA DESHPRABHU AND 7
ORS.,

... Respondents

Applicant in person.

Mr. D.Pangam, Advocate for the respondent no.1.

Mr. S.R. Rivankar, Public Prosecutor for the respondent no.2.

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

Date:- 11th January, 2016

P.C.

1] Heard Mr.Kashinath Shetye, the petitioner in person, Mr. D. Pangam, learned Advocate appearing for respondent no.1 and Mr. Rivankar, learned Public Prosecutor appearing for the respondent no.2.

2] This is a review petition filed by the petitioner-in-person, inter alia, contending that the view taken by this Court while disposing of Criminal Writ Petition No.128/2013 relying upon the judgment of the Division Bench of this Court dated 21st of October, 2015 in Criminal Writ Petition No.159/2014 in the case of Avinash S/o. Trimbakrao Dhondage Vs. The State of Maharashtra and anr., is

without considering the unreported judgment of this Court dated 13/01/2015 in Criminal Application No.4660/2014 in the case of Yogesh Vilas Dalvi & ors. vs. The State of Maharashtra.

3] Upon hearing the petitioner-in-person and the learned Counsel appearing for the respective respondents, we find that the point for determination in the case of Avinash S/o. Trimbakrao Dhondage Vs. The State of Maharashtra and anr.(supra), as referred to at paragraph 1, reads thus:-

"Whether the order made by the Magistrate u/s.156(3) of the Code of Criminal Procedure, 1973, directing police to make investigation would be an interlocutory order ?
If no, whether remedy of revision u/s.397 or Section 401 of the Code of Criminal Procedure, 1973, would lie ?

4] On perusal of the judgment of the Division Bench of this Court in the case of Yogesh Vilas Dalvi & ors. vs. The State of Maharashtra(supra), we find that the conclusion, as well as the issues involved therein are different and do not answer any point for determination. The Judgment records that it is not in dispute that order passed by the Judicial Magistrate First Class was in the nature of interlocutory order for ascertaining whether there is prima facie case. The Judicial Magistrate First Class, Tuljapur entertained the complaint filed by the respondent No.2 therein and ordered to register said complaint in Misc. Criminal Register and directed the

respondent No.2 to appear before the Court for verification on 12th April, 2013. The said observations itself show that in the facts of the said case, it was not disputed that the impugned order therein was in the nature of an interlocutory order.

5] In view of the above, we find that there is no case made out by the petitioner-in-person for review of the order passed by us.

6] The petitioner-in-person has also argued on merits of the petition. But, however, we are not examining the matter on merits. Hence, the petitioner can advance such contentions, if so advised, before the learned Sessions Judge, who shall examine the matter on its own merits, in accordance with law.

7] Hence, we find that no case is made out for review of the judgment passed by this Court. There is no error apparent on the face of record. The review petition stands rejected accordingly. All contentions of the parties, on merits, are left open.

K. L. WADANE, J.

F. M. REIS, J.

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