

IN THE HIGH COURT OF BOMBAY AT GOA.**CRIMINAL WRIT PETITION NOS. 28 of 2017, 26 of 2017 and
25 OF 2017.****WRIT PETITION NO. 28 OF 2017.**

Mr. Saurabh Khanna
S/o. Mr. Brij Mohan Khanna,
Age 35 years, Business, Indian
National, R/o. A 50, D. R. Enclave,
Airport Road, Amritsar, Punjab. Petitioner.

Vs.

1. State of Goa,
Through the Public Prosecutor
Panaji Goa.
2. Mrs. Navroop Khanna
W/o Mr. Saurabh Khanna
Major in age, House wife,
Indian, R/o. A 50, D. R. Enclave,
Airport Road, Amritsar, Punjab. Respondents.

**WITH
WRIT PETITION NO. 26 OF 2017.**

Mr. Jasraj Puri,
S/o. Mr. Inderjit Singh Puri,
Age 37 years, Indian
National, R/o.B8, Ranjit Avenue,
Near Madan Hospital. Petitioner.

Vs.

1. State of Goa,
Through the Public Prosecutor
Panaji Goa.
2. Mrs. Navroop Khanna
W/o Mr. Saurabh Khanna
R/o. A 50, D. R. Enclave,
Airport Road, Amritsar, Punjab. Respondents.

**WITH
WRIT PETITION NO. 25 OF 2017.**

1. Mr. Aseem Kapur,
S/o. Late Mr. Raman Kapur,
age 36 years, Indian
National, R/o. H. No.3.
Maqbool Road, Amritsar,
Punjab 143001.
2. Mr. Amit Dhawan,
S/o Mr. Suresh Kumar Dhawan,
Age 36 years, Indian National,
R/o 115, Bazar Tunda Talab,
Amritsar, Punjab. Petitioners.

Vs.

1. State of Goa,
Through the Public Prosecutor
Panaji Goa.
2. Mrs. Navroop Khanna
W/o Mr. Saurabh Khanna
R/o. A 50, D. R. Enclave,
Airport Road, Amritsar, Punjab. Respondents.

**Coram:-C. V. BHADANG &
PRITHVIRAJ K. CHAVAN,JJ.**

Date :-14th September, 2017.

Shri S. Gupte, Senior Advocate with Ms. A. Desai, Advocate for the petitioner/petitioners.

Shri P. Faldessai, Addl. Public Prosecutor for the respondent no.1

Shri A. Kakodkar, Advocate for the respondent no.2.

P.C.:-

All these petitions involve a common issue and they can be conveniently disposed by a common order.

2. The petitioners are challenging the order dated 30.11.2016 passed by the learned Judicial Magistrate, First Class at Panaji in Final Report No.203/2015. By the impugned order, the learned Magistrate while refusing to accept a 'B' final summary filed by the Investigating officer, has directed further investigation to be conducted.

3. Brief facts are that on the basis of a complaint lodged by Navroop Khanna, wife of the petitioner Saurabh Khanna (Criminal Writ Petition No.28/2017) an offence punishable under Sections 143, 146, 147, 354, 323, 506(ii), 504, 497 read with Section 149 IPC was registered at crime no.4/2015 against the petitioners and others with the Women Police Station. According to the complainant, all the accused in furtherance of common object had assaulted, abused and threatened her and also outraged her modesty. The Investigating Officer after conducting the investigation filed a B final summary before the learned JMFC, mainly on the ground that CCTV footage of the house where the alleged incident had occurred does not show that the complainant was assaulted by any of the accused.

4. It appears that the complainant filed a protest petition and after hearing the complainant, the learned Magistrate found that the CCTV footage was only in respect of sitting room area and not in

respect of the spot of incident i.e. bed room on the left hand side. In paragraph 15, the learned Magistrate has observed that in the CCTV footage it is seen that the complainant had gone on the left hand side bedroom and had returned after three minutes and CCTV footage of whatever had happened in these three minutes is not available. Secondly it was also found that the Investigating Officer has not even recorded the statement of mother-in-law of the complainant who was admittedly present.

5. We have heard Shri Gupte, the learned Senior Counsel for the petitioner and Shri A. Kakodkar, the learned Counsel for the respondent no.2 and Shri P. Faldessai, the learned Addl. Public Prosecutor for the respondent no.1.

6. Indisputably, after the impugned order was passed, the Investigating Officer has recorded some statements including that of mother-in-law of the complainant. We find that the learned Magistrate was right in concluding that the sole reliance on the CCTV footage in filling B summary was not proper in as much as the said footage did not cover the alleged occurrence in the bed room on the left side. At the stage when the final summary was filed the Investigating Officer had not even recorded the statement of all the available witnesses, including that of the mother-in-law of the complainant, who was admittedly present.

7. We have carefully gone through the impugned order and we do not find any infirmity so as to requires interference. In such circumstances, Criminal Writ Petitions are dismissed. Needles to mention that in the event the Investigating Officer files a chargesheet, it will be open for the petitioners to take recourse to appropriate remedy, if any, available in law.

PRITHVIRAJ K. CHAVAN,J.

C. V. BHADANG,J.

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