

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL REVISION APPLICATION NO. 12 OF 2017

Mr. Suraj George,
S/o Mr. George Kuruvilla,
Aged 35 years, bachelor,
resident of H. No. 61,
Barroswada, Sangolda,
Bardez, Goa.

..... Petitioner/
Original Accused no.3.

V e r s u s

S T A T E

(Through Public Prosecutor
High Court, Panaji, Goa)

.... Respondent.

DATE:- 17TH APRIL, 2017.
CORAM: M. S. SONAK, J.

Adv. Mr. Amol Naik for the Petitioner.
Mr. M. Amonkar, Addl. Public Prosecutor for the Respondents.

ORAL JUDGMENT:

Rule.

2. With the consent and the request of the learned counsel for the parties rule is made returnable forthwith.

3. The petitioner takes exception to the order dated 4/1/2017 made by the President of the Children's Court at Panaji, by which, summons have been

declined to certain witnesses which the petitioner seeks to examine in defence.

4. Mr. Naik, the learned counsel for the petitioner submits that the relevancy for examination of such witnesses has in fact been stated in the civil application to the extent such relevancy can be stated at the outset. He submits that in the application of such a nature, is neither fair nor necessary to require the accused to disclose in detail the relevancy or the precise need for examination of such a witnesses. He submits that if such requirements is insisted for, it will be impossible to elucidate true and correct answers from the witnesses. He submits that the application seeking summons was taken out no sooner the prosecution evidence concluded. He submits that there may be delay in the proceedings but, the delay can be reasonably attributed more to the prosecution than to the accused.

5. Mr. Amonkar, the learned Public Prosecutor submits that the petitioner is only trying to delay the proceedings which have commenced in the year 2009. He submits that there is absolutely no necessity to summon four police officials. He submits that at least some details were required to be set out in the application to demonstrate the relevancy of examining such witnesses. Since this has not been done, the impugned order may not be interfered with.

6. Upon due consideration of the rival submissions and on perusal of the record, though there does appears to be some merit in the submission of Mr. Amonkar that the applicant perhaps is trying to the delay or protract the matter, there is no point in depriving the applicant of the opportunity to lead effective defence evidence. If the application is perused, it cannot be said that the witnesses in respect of whom the summons is applied for, have nexus whatsoever is with the offence as alleged against the petitioners. At this stage it may not be feasible for the applicant to set out in great details the precise relevance for the examination of such witnesses. The application seeking summons was also be taken up no sooner the prosecution evidence was concluded. Taking into consideration all these factors, the application dated 12/12/2016 made by the applicant can be allowed. However, even the applicant is required to be put to some terms, particularly, so that the applicant does not protract the proceedings before the Children's Court.

7. Mr. Naik has already stated that other than these witnesses, there are no further witnesses to be examined. This statement is accepted. Further, the applicant is directed to cooperate for the progress of the further proceedings and not to unnecessary seek adjournments or otherwise, delay or protract the proceedings.

8. Accordingly, the criminal revision application is allowed. The impugned order dated 4/1/2017 is set aside. The application dated 12/12/2016 (Exhibit D-180) is allowed. Rule is made absolute in aforesaid terms.

9. All concerned to act on the basis of an authenticated copy of this order.

10. The parties to appear before the learned Children's Court on 21/4/2017.

M. S. SONAK, J.

ap/-