IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 128 OF 2016

Mrs. Sneha Anant Thaly alias
Sneha Anish Ansari, alias Sneha Thali,
C/o. Mrs. Smitha Anant Thay (mother),
H.No.1185, Mahalaxmi Prassana,
1st floor, Beside Laxmi Temple,
Baman Wado, Siolim, Goa,
Indian National .... Petitioner/Applicant

V e r s u s

1. Public Prosecutor,
of Hon'ble High Court,
Panaji,Goa.

2. The Chief Registrar of Birth and Deaths,
Pt. Deendayal, Upadhyay Bhavan,
Porvorim-Goa.

3. The Secretary, Village Panchayat of Siolim,
Marna and Registrar of Births and Deaths,
Village Panchayat Siolim,
Siolim, Bardez, Goa. ... Respondents

Mr. Virendra Parsekar, Advocate U/las for the Petitioner.

Mr. Pravin N. Faldessai, Addl. Government Advocate for Respondent no.2.

Coram:- C. V. BHADANG, J.
Date:- 13th February, 2017.

ORAL JUDGMENT:

Rule, made returnable forthwith. The learned Additional

Government Advocate waives service for respondent no.2. None appears for respondent no.3/Village Panchayat, which is otherwise a formal party. Heard finally by consent of parties.

2. The petitioner had filed an application under section 13(3) of the Registration of Births and Deaths Act 2005 (Act for short) before the the learned Magistrate for registration of birth of the eldest daughter of the petitioner.

3. A perusal of the order sheet shows that the notice was issued to the respondent on 12/2/2016 and it was made returnable on 5/3/2016. Thereafter the case was fixed on 17/3/2016 when the petitioner was present. The notice issued to the respondent was found to be duly served and the matter was adjourned to 5/4/2016. On that date the petitioner was present, however, on account of the Presiding judge being on leave, the matter was fixed on 16/4/2016. On that date, in the absence of the petitioner the application has been dismissed for non prosecution, which is subject matter

of challenge in this petition.

4. Although the order dated 16/4/2016 mentions that the petitioner remained absent despite repeated opportunities, the order sheet does not support any such conclusion. Thus the petition is allowed. The impugned order is hereby set aside. The criminal application no. 49/Birth/2016/F is restored on the file of the learned Judicial Magistrate First Class, Mapusa, for disposal according to law. Rule is made absolute in the aforesaid terms.

C. V. BHADANG, J.

ap/-