

IN THE HIGH COURT OF BOMBAY AT GOA.

CRMA NO.199/2016 in CRIMINAL WRIT PETITION NO.15/2016.

Mr. Cedric Vaz,

Applicant

Versus

The Police Inspector/Station-in-Charge
and others.

Respondents

...

Shri R.Menezes, Advocate for the applicant.

Shri Pravin N. Faldessai, Additional Public Prosecutor for the
respondent nos. 1, 2 and 3.

Shri S.G. Desai, Senior Advocate with Shri A.V. Pavitharan,
Advocate for the respondent no.4.

**CORAM : F.M.REIS & NUTAN D.SARDESSAI, JJ
DECIDED ON :18/01/2017.**

ORDER: (Per NUTAN D. SARDESSAI, J.):

1] Heard Shri R. Menezes, learned Advocate for the applicant, who has moved the present application which in sum and substance is virtually Speaking to the Minutes of the judgment and order dated 03/08/2016 pursuant to which the impugned order passed by the learned Judicial Magistrate First Class, Panaji was quashed and set aside and the proceedings under Section 156 (3) of Code of Criminal Procedure ("CrPC" for short) were remanded to the learned Judicial Magistrate First Class, Panaji for a consideration afresh in the light of the observations made in the judgment. It was his contention that once the order was found not legal and the impugned order was

quashed and set aside, as a sequel thereto the order had to be read that the FIR registered against the petitioner-applicant had to be quashed. Shri P. Faldessai, learned Additional Public Prosecutor on behalf of the respondent no.1 in fairness conceded that the FIR which was ordered to be registered as a consequence of the order under Section 156 (3) of the CrPC of the learned Judicial Magistrate First Class, Panaji had also to be quashed when the impugned order passed by the learned Judicial Magistrate First Class was quashed and set aside. Shri A. Pavithran, learned Advocate appearing for the respondent no.4 submitted that the application was not tenable and had to be dismissed.

2] It was nowhere in dispute that this Court pursuant to the judgment and order dated 03/08/2016 had quashed and set aside the impugned order by which the learned Judicial Magistrate First Class had partly granted the application moved under Section 156 (3) of the CrPC and directed the respondent no.1-State to register an FIR and investigate into the matter. Once it was clearly held by this Court that the impugned order was quashed and set aside and a direction issued to the learned Judicial Magistrate First Class, Panaji to determine the matter afresh, it would follow as a necessary sequel thereto that the FIR stood quashed which was earlier directed to be registered pursuant to the order of the learned Judicial Magistrate First Class, Panaji. Therefore, the contention of Shri Pavithran, learned Advocate for the

respondent no.4 does not stand the test of scrutiny either on the premise that the review of the order was barred or that Speaking to the Minutes was not permissible. The application is accordingly allowed and the FIR is also ordered to be quashed and set aside.

NUTAN D. SARDESSAI, J

F.M.REIS, J

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