

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 197 OF 2017

PEDRO XAVIER ANDRADE AND 2 ORS., ... Petitioners

Versus

STATE OF GOA, THR. OFFICER IN
CHARGE, COLLEM POLICE STATION., ... Respondent

Adv. Ashwin D. Bhobe for the Petitioners.

Coram:- C. V. BHADANG, J.

Date:- 20th November 2017

P.C.:

Heard Shri Bhobe the learned counsel for the petitioners for some time.

2. The petitioners are challenging the order dated 29/12/2015 by which the learned Magistrate had committed the case to the Court of Sessions on the ground that prima facie a case for the offence punishable under section 307 of I.P.C is made out. The petitioners instead of attempting to show to the learned Sessions Judge at the time of framing charge that no offence under section 307 of I.P.C is made out, opted to challenge the order, before the learned Sessions Judge in Criminal Revision Application No.20/2016. The learned Sessions Judge has upheld the order of the learned Magistrate on the ground that prima facie it attracts

section 307 of I.P.C..

3. Shri Bhobe, the learned counsel for the petitioners submits that there was no intention which can be attributed to the petitioners to commit murder of the victim. The learned counsel for the petitioner states that the spade which is allegedly used by one of the petitioners was lying at the spot and this would show that there was no premeditation. The learned counsel has also referred to the injuries suffered by the victim in order to submit that no case for committal to the court of Sessions is made out.

4. I have carefully considered the circumstances and the submissions made and gone through the record. At the outset, it is necessary to note that offence under section 307 of I.P.C does not require that the victim is injured. The essence of section 307 of I.P.C is an attempt to commit murder which can be spelt out from the nature of the weapon used, the part of the body targeted and in a given case, where the victim is injured, the nature of the injuries. A bare perusal of the complaint shows that the petitioner Briden Andrade came running with a spade and assaulted the complainant on his head, nose and other parts of the body. There is also an allegation that the petitioner Briden Andrade lifted a huge stone and attempted to throw it on the victim, however, his attempt failed.

5. I have also gone through the statements of the witnesses including William Lobo, Mr. Arjun Sahu, Mr. Rajan Mandal, Mr. Dipak Gaonkar and Mr. Dipak Pawar which also prima facie support the allegations in the complaint. Thus in my considered view no exception can be taken to the finding recorded by the learned Sessions Judge in the impugned judgment. The petition is without any merit and is accordingly dismissed.

C. V. BHADANG, J.

ap/-