

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 3 OF 2017

LANCE IRWIN LOBO., ... Petitioner
Versus
THE STATE THR. PI, PORVORIM POLICE
STATION AND 2 ORS., ... Respondents

Mr. Nigel Da Costa Frias, Advocate for Petitioner.
Mr. Pravin N. Faldessai, Additional Public Prosecutor for
Respondent no. 1.

Coram:- F. M. REIS &
NUTAN D. SARDESSAI, JJ.

Date:- 23rd January, 2017

P.C.:

Heard Mr. Nigel Da Costa Fraiss, learned Counsel appearing for the Petitioner and Mr. Pravin Faldessai, learned Additional Public Prosecutor, appearing for the Respondent no. 1.

2. Though Mr. Nigel Da Costa, learned Counsel appearing for the Petitioner, has vehemently tried to persuade us to exercise our extraordinary jurisdiction under Article 226 of the Constitution of India to quash the proceedings against the Respondent no.1, on the ground that there is no material on record to support such proceedings, we find that it would not be appropriate for this Court to exercise its extraordinary jurisdiction in the facts and circumstances of the case, as the learned Additional Public Prosecutor submitted that the Petitioner can file an application under Section 258 of Code of

Criminal Procedure before the concerned Magistrate.

3. Mr. Nigel Da Costa, learned Counsel appearing for the Petitioner, has in fact pointed out that there are several litigations between the parties which are still pending and the complaint itself was a counterblast to such legal proceedings wherein orders are in operation, in favour of the Petitioner herein. But, however, as the Petitioner has an efficacious alternate remedy as pointed out by the learned Additional Public Prosecutor, in the peculiar facts and circumstances of the case, we find no case for interference by this Court at this stage. Needless to say, the learned Magistrate shall proceed to hear the Petitioner in the Criminal Case No.364/S/2015/'A' Court in case an application is filed before framing any charge and in terms stated hereinabove and take a decision thereon within three months from the date of filing of such application.

4. Keeping liberty to the Petitioner to file such application before the learned Magistrate as stated, the Petition stands disposed of.

5. All contentions of the parties on merits are left open.

msr