

IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 371 OF 2018

TULSHIDAS BABANI KUDNEKAR., ... Petitioner

Versus

**GOA STATE HUMAN RIGHTS COMMISSION,
THROUGH ITS SECRETARY AND 5 ORS.,** ... Respondents

Adv. Prashil Arolkar U/las for the Petitioner.

Mr. Mr. Arun A. S. Talaulikar, Addl. Government Advocate for
Respondent no.2 & 3.

Adv. Rohit Pednekar for the Respondent no.6.

Coram:- C. V. BHADANG, J.

Date:- 28th November 2018

Oral Order:

The present petition involves a dispute as to the possession/custody of a Hero Honda motorcycle, bearing registration no.GA-03-K-6015. Unfortunately the dispute is between the petitioner and the respondent no.6, who are real brothers. Indisputably on the basis of a complaint lodged by the petitioner the Road Transport Authority (RTA) had seized the vehicle from the possession of the sixth respondent. The sixth respondent in the meantime appears to have approached the Human Rights Commission. The Human Rights Commission by an order dated 21/10/2015 directed the sixth respondent to

appear before the Transport authority (the respondent no.1 before the Commission) and directed the Transport authority to hear the sixth respondent and to pass order in accordance with law. Admittedly in the petition filed by the sixth respondent before the Human Rights Commission the petitioner was not made a party. The petitioner subsequently got himself impleaded before the Human Rights Commission. It appears that in the meantime, the Assistant Director of Transport issued a letter dated 23/10/2015 to the Police Station Officer, P.S. Calangute directing the police authority to release the vehicle in favour of the respondent no.6. The said communication dated 23/10/2015 records that the offences have been compounded. It is a matter of record that the petitioner on whose complaint the vehicle was seized had not compounded the offence with sixth respondent. Thus the letter dated 23/10/2015 directing the Police Station Officer, Calangute Police station to hand over the custody of the vehicle to the sixth respondent on the ground that the offences have been compounded is not correct, as the same is not borne out of the record. It appears that by a subsequent order dated 20/1/2017, the Human Rights Commission has found the action of the Transport authority in handing over the vehicle to the sixth respondent correct, as according to the Human Rights it is settled law that in criminal proceeding, when vehicle is attached by any authority, the same should be handed over to the person from whose custody the vehicle was attached. It is not necessary

to comment on the correctness of the said observation. Suffice it to mention that the action of Transport authority in handing over the vehicle to sixth respondent on the purported ground that the offences were compounded is not correct, as factually there is no compounding of the offence between the petitioner and the sixth respondent.

2. Shri Talulikar, the learned Additional Government Advocate appearing for the respondent nos.1 to 5 states that the transport authority shall hear the parties afresh and shall decide the matter about the custody of the vehicle on the basis of the documents as produced and decide the same in accordance with law.

3. The statement is accepted.

4. In the result the impugned communication dated 23/10/2015 issued by the Asst. Director of Transport is hereby quashed and set aside.

5. The parties shall appear before the Asst. Director of Transport on 5/12/2018.

6. The Asst. Director shall decide the dispute about the custody of the vehicle on the basis of the documents as produced and in accordance with law, without being influenced by the

observations and findings of the Human Rights Commission.

C. V. BHADANG, J.

ap/-