

**IN THE HIGH COURT OF BOMBAY AT GOA**  
**CRIMINAL WRIT PETITION NO. 136 OF 2018**

**SHAMA G. BOTHE AND ANR.,**

**... Petitioners**

**Versus**

**STATE OF GOA, THR. THE SENIOR  
INSPECTOR OF POLICE, PANJIM POLICE  
STATION, PANJIM.,**

**... Respondent**

Adv. Hemant Ingale with Adv. Sagar Surendra Sarmalkar for the Petitioner.

Mr. S. R. Rivankar, Public Prosecutor for the Respondent/State.

**Coram:- C. V. BHADANG, J.**

**Date:- 31st July 2018.**

**P. C.:**

The petitioners, who are the accused in Criminal Case No.191/S/2014/A before the Court of the learned Chief Judicial Magistrate at Panaji are challenging the order dated 12/6/2018 passed by the learned Chief Judicial Magistrate refusing to take up an application dated 27/4/2018 for consideration before framing of charge. Indisputably the application for calling of documents, from the Investigating Agency, submitted by the petitioners during the course of the investigation (which application is filed by the petitioners on 27/4/2018) is still pending consideration, before the learned Chief Judicial Magistrate.

2. On hearing the learned counsel for the petitioners and the learned Public Prosecutor for the respondent, I do not see any reason to interfere with the impugned order dated 12/6/2018 thereby dismissing the application filed on 28/5/2018. In my considered view the said application itself was misconceived inasmuch as the learned Magistrate by an order dated 28/12/2016 had refused to discharge the petitioners and had directed the framing of charge against the petitioners under section 420 r/w section 34 of I.P.C. Thus, there was no occasion for the petitioners to have requested for deciding the application dated 27/4/2018 before framing of the charge, once the application for discharge was rejected and there was a direction for framing of charge. The subsequent act of recording the plea of the accused and obtaining their signatures on a formal charge, is only in the nature of a ministerial act. Thus no case for interference with the impugned order is made out. The petition is accordingly dismissed. Needless to mention that the learned Magistrate shall decide the application filed on 27/4/2018 as expeditiously as possible, on its own merits and in accordance with law.

**C. V. BHADANG, J.**

**AP/-**