

**IN THE HIGH COURT OF BOMBAY AT GOA**

STAMP NUMBER MAIN NO. 3891 OF 2017

SANJEEV MENINO JESUS TAVARES., ... Petitioner

Versus

ALVIS SANTANO ALMEIDA., ... Respondent

Shri John Abreu Lobo, Advocate for the Appellant.

Shri Nigel Da Costa Frias, Advocate for the Respondent.

Coram:- C. V. BHADANG, J.

Date:- 6th March 2018

P.C:

This is an appeal against acquittal of the respondent.

2. The appellant had filed a complaint under Section 138 of the Negotiable Instruments Act against the respondent. The learned Magistrate by the impugned order dated 16.06.2017 has dismissed the complaint and acquitted the respondent, purportedly under Section 249 of Cr.P.C., on account of the fact that the appellant failed to remain present, inspite of opportunities granted.

3. Shri Lobo, the learned Counsel for the appellant submits that the appellant was abroad and this was the third date fixed for cross examination of the appellant. It is submitted that the appellant has now come back and would punctually remain

present on the dates fixed.

4. Shri Frias, the learned Counsel for the respondent has opposed on the ground that this is the third consecutive adjournment sought by the appellant. However, considering the circumstances and the submissions made, the appeal is allowed. The impugned order dated 16.06.2017 is hereby set aside. Criminal Case No. 13/OA/NI/16/II is restored to the file of the learned Judicial Magistrate First Class at Margao, for disposal in accordance with law. Parties to remain present before the learned Magistrate on 20.03.2018 at 10:00 a.m.

C. V. BHADANG, J.

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