

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 158 OF 2018

WIBRO CONSTRUCTION COMPANY, THR.
ITS PROP., K. ABDULLA., ... Petitioner

Versus

SHANTAL RAMDAS NAYAK., ... Respondent

Ms. Asha A. Desai, Advocate for the Petitioner.
Mr. V. Shirodkar, Advocate for the Respondent.

Coram:- C. V. BHADANG, J.

Date:- 10th April 2019

P.C.

By this petition, the petitioner, who is the original plaintiff, is challenging the order dated 15.03.2018 passed by the learned Sessions Judge, below application (exhibit 26) in Criminal Appeal No.60/2015.

2. By the impugned order, the application (exhibit 26), filed by the respondent no.1, who is the original accused before the learned Sessions Judge for production of the deposition in Criminal Case No.OA/152/NIA/11/C has been allowed. The application encloses a deposition in Criminal case no.OA/152/NIA/12/C.

3. Be that as it may, on hearing the learned Counsel for the parties, it transpired that the deposition of Mr. K. Abdulla on

behalf of the complainant in Criminal case no.OA/152/NIA/12/C is in a case which strictly cannot be said to be between the same parties inasmuch as the accused in that case is a Company while in the present case, the respondent no.1 is the accused in person. One of the reasons for which the application has been allowed is that both the cases are between the same parties which factually is incorrect. Although, in para 7 of the order, the learned Sessions Judge has referred to the deposition in Criminal Case No.OA/152/NIA/12/C, the final order shows that the production of the deposition in Criminal case no.OA/152/NIA/11/C has been allowed. There is also a serious doubt as to whether evidence recorded in some other case can form substantive evidence in the present case.

4. I find that all these aspects are not taken into consideration by the learned Sessions Judge while allowing the application. Thus, keeping all the contentions open, the impugned order is hereby set aside.

5. The application (exhibit 26) is remitted back to the learned Sessions Judge for deciding it afresh on its own merits and in accordance with law.

6. The petition is partly allowed in the aforesaid terms.

C. V. BHADANG, J.