

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPLICATION (MAIN) NO. 144 OF 2018

M.G. RADHAKRISHNAN AND 3 ORS., ... Applicants

Versus

**NATIONALIST CONGRESS PARTY, THR.
ITS STATE PRESIDENT JOSE PHILIP
D'SOUZA.,** ... Respondent

Shri R. Rao, Advocate for the applicants.
Ms. V. Mapari, Advocate for the respondent No.2.

Coram:- NUTAN D. SARDESSAI, J.

Date:- 7th January 2019

P.C.:

Heard Shri R. Rao, learned Advocate for the applicants and
Ms. V. Mapari, learned Advocate for the respondent No.2.

2. Shri R. Rao, learned Advocate for the applicants invited attention to the Section 186(b) CrPC and otherwise submitted that the complaint was lodged by the respondent No.1 under Sections 499, 500 r/w. 120B and 34 IPC against the applicants herein before the JMFC, Panaji on 01/09/2017 and registered as Criminal Case No.174/2017/B. It was next his contention that a second complaint was lodged on 28/10/2017 by the respondent No.2 before the Chief Judicial Magistrate, Ernakulam and bearing Criminal Case No.172/2017 arising out of the same incident involving the same offences under Sections 499, 500 r/w. 120B and 34 IPC. Cognizance was taken by the learned

JMFC, Panaji on 29/01/2018 while the learned Chief Judicial Magistrate, Ernakulam took cognizance on 06/02/2018 as the entire telecast involving a local MLA of the Kerala Assembly was made in the State of Kerala which was no doubt telecast also in the State of Goa alleging acts of corruption against him. The amount involved in the said case also affected the public of Kerala and besides the applicants who were from Kerala. It was therefore his contention that by invoking Section 186(b) CrPC, the proceedings before the learned JMFC, Panaji had to be discontinued and those before the learned Chief Judicial Magistrate, Kerala had to proceed in respect of the same offences against the petitioners. He placed reliance in State of MP v/s. Bahadursingh and others [1984 Cri.L.J.1065] and Kuljeet singh alias Jeetu v/s. Central Bureau of Investigation New Delhi and others [2000 Cri.L.J. 3681].

3. Ms. V. Mapari, learned Advocate for the respondent No.2 submitted that the proceedings could continue before the learned Chief Judicial Magistrate, Ernakulam and fairly conceded that the telecast related to a local MLA of the Kerala Legislative Assembly involving large sums of money which he was supposed to have misappropriated, that be affected the general public of Kerala State, that it has no repercussion as State of Goa is concerned and moreover she also conceded that the trial before the learned Chief Judicial Magistrate, Ernakulam had proceeded and witnesses were summoned to depose in the matter.

4. Right from the inception there has been no participation at the instance of the respondent No.1 though notices were issued time and again and there has been no contest at their instance. Even otherwise considering the predicates of Section 186(b) CrPC and the judgments relied upon by Shri R. Rao, learned Advocate, it is apparent that the entire transaction affects the State of Kerala in particular, and therefore it is appropriate that the proceedings before the learned JMFC, Panaji be discontinued and those before the learned Chief Judicial Magistrate be continued.
5. In view thereof, the application is allowed whereby the proceedings before the learned JMFC, Panaji shall stand discontinued.
6. The learned Chief Judicial Magistrate, Ernakulam to consider the complaint on its own merits without being influenced by the observations made by this Court.
7. In these terms, the application stands disposed off.

NUTAN D. SARDESSAI, J.

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