

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 181 OF 2018

MADHUKAR K. FARDE.,

... Petitioner

Versus

**CENTRAL BUREAU OF INVESTIGATION
THE OFFICER IN CHARGE, BAMBOLIM.,**

... Respondent

Shri S. Desai and Shri Rohan Pandurang Desai, Advocates for
the Petitioner.

Shri Mahesh Amonkar, Special Public Prosecutor for the
Respondent.

Coram:- NUTAN D. SARDESSAI, J.

Date:- 7th February 2019

ORAL ORDER :

Heard Shri S. Desai, learned Advocate for the petitioner and
Shri M. Amonkar, learned Additional Public Prosecutor for the
respondent.

2. An objection has been taken to the order passed by the
learned Sessions Judge on the premise that despite objections
being taken to the recording of the statement of the witness by
the junior Counsel on record, the objections were not considered
and the statement of the witness came to be recorded which was
a verbatim reproduction of the statement made by him before the
CBI.

3. I have perused the order under challenge and on a reading of which it is apparent that the learned Sessions Judge was seized of the limitation contained in Section 162 of the Criminal Procedure Code vis-a-vis the statement recorded before a Police Officer and which is used in the Court in the course of the examination of the witness. Nonetheless, it does not appear that the learned Sessions Judge had adhered to the mandate contained in Section 162 of the Criminal Procedure Code. Rather, the learned Sessions Judge has mentioned at paragraph 7 that a witness who was an advocate by profession had deposed after perusing the document. If such is the position, though not affirmed by the learned Advocate on record, nonetheless, it does not speak well of the conduct of the proceedings before the learned Sessions Judge which would tantamount to prejudicing the petitioner's case in the trial conducted by the learned Sessions Judge.

4. The order on the face of it cannot be allowed to stand and in view thereof the same is quashed and set aside. The parties are directed to appear before the learned Sessions Judge who shall afford an opportunity to the prosecution to re-examine the witness and by taking due care and caution to see that he does not read through his statement recorded by the CBI during the course of the examination-in-chief.

5. In these terms, the petition stands disposed off.

NUTAN D. SARDESSAI, J.

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