

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 139 OF 2018

ANTHONY SUNNY DIAS.,

... Petitioner

Versus

**MOHAMMAD RAFIQ ABDUL KARIM
NARPALLI.,**

... Respondent

Ms. A. Agni, Senior Advocate with Ms. J. Sawaikar, Advocate
for the Petitioner.

Shri Ashwin D. Bhobe, Advocate for the Respondent.

Coram:- NUTAN D. SARDESSAI, J.

Date:- 14th February 2019

ORAL ORDER:

Heard learned Counsels for the parties.

2. By an order dated 18/01/2019, the preliminary objections to the maintainability of the petition were decided against the respondent and in the petitioner's favour. This order had otherwise considered the merits of the case at length and come to a prima facie finding that the learned JMFC did not have the powers to discharge the accused. Besides, there was a finding that there was a jurisdictional error committed by the learned Magistrate while passing the order under challenge.

3. In view thereof, the petition is allowed. The impugned

judgment is quashed and set aside and the matter is remanded to the learned Trial Court, JMFC 'A' Court at Vasco for which the parties shall remain present before the learned JMFC, Vasco on 08/03/2019 at 10.00 hrs.

4. The petition stands disposed off.

NUTAN D. SARDESSAI, J.

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