

Santosh

***IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL WRIT PETITION NO.114/2016***

Elvis Gomes. Petitioner.
Versus
State of Goa and others. Respondents.

Mr. Ryan da Piedade Menezes with Mr. Nigel Fernandes, Advocate
for the Petitioner.

Mr. S. R. Rivankar, Public Prosecutor for the State- Respondents.

***Coram : M.S. Sonak &
Nutan D. Sardesai, JJ.***

Date : 8 March 2019.

P.C.:

1. Heard Mr. Menezes, learned Counsel for the Petitioner
and Mr. S. R. Rivankar, learned Public Prosecutor for the State.

2. This petition seeks quashing of the FIR bearing Crime
No.05/2016, dated 6 May 2016, registered against the Petitioner
with the Anti Corruption Bureau of the Directorate of Vigilance.

3. We had directed the Respondents to file status reports as to
the investigations in the matter.

4. First status report was filed on 4 December 2018.
Paragraph 21 of this status report reads thus :

“21. During the course of investigation the role of the then MD Shri Elvis Gomes against whom the complainant had alleged was thoroughly investigated. The case papers of this case were referred to the Ld. DOP, who opined that there was no iota of evidence documentary or otherwise to send chargesheet against the then Government official Shri Elvis Gomes under the various sections he was charged.”

5. Second status report was filed on 21 February 2019.

Paragraphs 17 and 18 of this status report, read thus :

“17) The case papers were referred to the Director of Prosecution for opinion and the Director of Prosecution has opined that the investigation in FIR ACB PS Crime No.05/2016 against Elvis Gomes & Others under the provisions of the Prevention of Corruption Act and Indian Penal Code have not brought out any evidence so as to file a chargesheet before the Court of Law.

18) A report u/s 173(2) Cr.P.C. is being submitted before the appropriate court.”

6. From the aforesaid, it is clear that according to the Prosecution, there is no iota of evidence, documentary or otherwise to file any charge-sheet against the Petitioner. So also according to the Prosecution, there is no case to file any charge-sheet against the remaining accused persons, as well.

7. Statement has been made in the status report dated 21 February 2019 that report under Section 173(2) Cr.P.C. is being

submitted before the appropriate Court. On instructions, learned Public Prosecutor states that such report will be submitted before the appropriate Court within a period of two weeks from today.

8. Once such a report is submitted before the appropriate Court, we direct the appropriate Court to take decision thereon, in accordance with law, as expeditiously as possible and, in any case, within a period of 8 weeks from the date of submission of such report. The appropriate Court to take such decision, in accordance with law, on its own merits, and by following the proper procedure prescribed in such matters.

9. In view of the aforesaid, according to us, nothing further survives in this Petition and the same is, accordingly, disposed of. However, it is made clear that all contentions of all parties are specifically kept open.

(Nutan D. Sardesai, J.)

(M.S. Sonak, J.)