

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL REVISION APPLICATION NO.57 OF 2018

S T A T E

.... Petitioner

V e r s u s

Mrs. Vaishali Gurav,
d/o Ganpat Gurav,
r/o H. No. 108, Indira Nagar,
Mapusa, Bardez, Goa.

..... Respondent.

Shri Pravin Faldessai, Additional Government Advocate for the Petitioner.

Shri L. Raghunandan, Advocate for the Respondent.

CORAM: C. V. BHADANG, J.
Date: 8th February, 2019.

Oral Order:

By this revision application, the State is challenging the order dated 6/7/2018, passed by the Children's Court refusing to frame charge against the respondent for the offence punishable under sections 323, 504 and 506 of I.P.C and section 8 (2) of the Goa Children's Act, 2003.

2. I have heard Mr. Faldessai, the learned Additional Public Prosecutor for the applicant and Shri Raghunandan, the learned counsel for the respondent. With the assistance of the learned counsel for the parties, I have

gone through the charge sheet, the accompanying statements and the impugned order as well.

3. On hearing the learned counsel for the parties, it appears that there is a marital dispute between the respondent and her husband CW2. The victim is their daughter, who was aged about 13 years at the time of the incident, which is alleged to have happened on 16/10/2014. According to the statement of the victim girl, she and her father were being harassed by the respondent and it is also claimed that the victim was being assaulted by slaps and kicks and she was kept without food. In so far as the specific incident dated 16/10/2014 is concerned, the prosecution case is that the respondent abused the victim in filthy language and insisted that she should commit suicide whereupon the victim is alleged to have consumed water containing mosquito repellent. It appears that this incident was informed by a boy residing in the locality to the prosecution witnesses. However, the said boy is not a prosecution witness nor his statement is recorded. The medical report of the victim when she was taken to government hospital at Mapusa shows that she was conscious and well oriented and prima facie at this stage it does not appear that there is any adverse medical report in so far as the condition of the victim is concerned on admission. The learned Children's Court has found and to my mind rightly so that in all probability the complaint lodged by the

father of the victim against her mother is an outcome of the marital discord between the parties and the material at the highest gives rise to a suspicion, as distinguished from 'grave suspicion'. The Hon'ble Supreme Court in the case of **Vijayan Vs. State of Kerala (2010) 2 SC 398**, has held that if two views are possible and one gives rise to a suspicion, as distinguished from grave suspicion, the trial court will be within its powers to discharge the accused. I have gone through the impugned order and it does not demonstrate any infirmity so as to require interference in the revisional jurisdiction of this Court, as the view taken by the learned Children's Court on the basis of the material on record, is a plausible view. The Revision application is without any merit and is accordingly dismissed.

C. V. BHADANG, J.

Ap/