

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO. 25 OF 2020

IMRAN KHAN.,

... Petitioner

Versus

STATE OF GOA, THR. THE PUBLIC
PROSECUTOR AND ANR.,

... Respondents

Shri Nitin Sardesai, Senior Advocate with Shri Kaif Noorani,
Advocate for the Petitioner.

Coram:- NUTAN D. SARDESSAI, J.

Date:- 5th February, 2020

P.C.:

Heard Shri Nitin Sardesai, learned Senior Advocate.

2. A challenge is offered to the order passed by the learned Addl. Sessions Judge-II which despite the order of de-freezing the account of the applicant had granted stay of the said order allowing the State time to pursue its remedy before the higher forum. It was the contention of Shri Nitin Sardesai, learned Senior Advocate that such an inherent power was not within the domain of the learned Addl. Sessions Judge and therefore on that count alone the stay could not have been granted. Besides, it was not in consonance with the order passed by this Court dated 17.12.2019. The order therefore, had to be quashed and set aside.

3. Shri S. R. Rivankar, Learned Public Prosecutor on behalf of

the State conceded in fairness that though an appeal was not a remedy available to the State to challenge the order passed by the learned Sessions Judge, nonetheless, it was understood that the state wanted to pursue its remedy before the higher forum and in that context, reference was made to an appeal though it was not intended to be an appeal. The Court was otherwise possessed of some inherent powers and therefore there was nothing amiss in the Court granting the stay of the order under challenge.

4. It is not particularly in dispute that the power under Section 482 Cr.P.C. can be exclusively exercised by this Court alone and not by the Court of the learned Addl. Sessions Judge. It was also not the case that the Court of the Addl. Sessions Judge was seized of the powers to reconsider the order and grant stay to enable the State to pursue its remedy before the higher forum and in view of the matter, such an order cannot stand the test of legal scrutiny and is therefore quashed and set aside.

5. Petition accordingly stands disposed off.

6. Parties to act on the basis of the authenticated copy of this order.

NUTAN D. SARDESSAI, J.

MF/-