

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL APPLICATION (MAIN) NO. 35 OF 2017

**SANATAN SANSTHA, A PUBLIC
CHARITABLE TRUST, THR. ITS
MANAGING TRUSTEE, VIRENDRA
PANDURANG MARATHE.,**

... Applicant

Versus

**STATE OF GOA, THR. STATE PUBLIC
PROSECUTOR AND 3 ORS.,**

... Respondents

Shri N. C Takbhate, Advocate for the applicant.
Shri V. A. Lawande, Advocate for the respondent nos.2 to 4.

Coram:- NUTAN D. SARDESSAI, J.

Date:- 14th January, 2020

P.C.:

Shri Takbhate, learned Advocate for the applicant submits that on account of the miscommunication of the date, the complainant failed to remain present and therefore the case came to be dismissed by the learned JMFC, Ponda on 30/05/2016 for non-prosecution. There was no deliberate act on the part of the complainant to remain absent but it was on account of miscommunication of the date that such an error took place. Therefore, this was a fit to grant the application which had to be granted.

2. Shri V. A. Lawande, learned Advocate submitted that the petition under Section 482 CrPC was not maintainable and that the applicant had to file an appeal against acquittal. However,

this contention cannot stand the test of scrutiny in view of the clear order of this Court dated 19/01/2017 wherein this Court considered the judgment of the Hon'ble Apex Court and objections on behalf of the respondent and thereupon permitted to convert the Criminal Writ Petition into an Application under Section 482 CrPC.

3. Looking to the tenor of the order passed by the learned JMFC, Ponda and the contention of Shri Takbhate, learned Advocate there is every merit in the application to interfere with the order under challenge by invoking the jurisdiction of this Court under Section 482 CrPC. In view thereof, the impugned order is quashed and set aside and the complaint is restored to file.

4. The parties are directed to appear before the learned JMFC, Ponda on 10/02/2020 at 10.00 hours.

5. The application stands disposed off accordingly.

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

NUTAN D. SARDESSAI, J.