

IN THE HIGH COURT OF BOMBAY AT GOA.

**CRIMINAL WRIT PETITION NO.36 OF 2021**

JOHN CONSTANCE DSOUZA

...Petitioner

VS

STATE OF GOA, THR. PUBLIC  
PROSECUTOR AND 2 ORS

... Respondents

Ms. G. Kamat Advocate for the petitioner.

Mr. Sagar Dhargalkar, Additional Public Prosecutor for respondents  
No.1 and 2.

**Coram:-** M. S. SONAK &  
SMT. M. S. JAWALKAR, JJ.

**Date :-** 15<sup>th</sup> July, 2021.

**P.C.:-**

Heard Ms. G. Kamat, learned Advocate for the petitioner  
and Mr. Sagar Dhargalkar, learned Additional Public Prosecutor for  
respondents No. 1 and 2.

2. The petitioner has instituted the present petition seeking  
direction to the respondents to add Sections 406, 407 and 477 of IPC  
in the FIR No. 266 of 2020. Ms. Kamat, learned Advocate now points  
out that there is an error in the prayer clause and Section 407 should  
in fact be substituted with Section 409 of IPC.

3. Ms. Kamat, learned Advocate submits that the complaint  
filed by the petitioner clearly discloses the commission of offences

under the aforesaid Sections and therefore, the FIR ought to have mentioned aforesaid Sections as well.

4. Mr. Dhargalkar, learned Additional Public Prosecutor submits that in such matters if any party is aggrieved, such party has to approach the Superintendent of Police. He submits that if the petitioner obtains no redressal from the Superintendent of Police, then there are provisions under the Code of Criminal Procedure ('Cr.P.C.', for short) including Sections 156 and 154 of Cr.P.C., under which the petitioner can seek redress.

5. According to us, Writ Petition will not be the appropriate remedy in this matter. If, the petitioner is aggrieved, the petitioner can take out appropriate proceedings under Cr.P.C. to seek redressal. Even otherwise, at the stage of framing of the charge, it is always open to the petitioner to point out to the Court that the material on record warrants framing of charge under the aforesaid Sections, in addition to the Sections already stated in the FIR.

6. For the aforesaid reasons, by giving liberty to the petitioner is the aforesaid terms, we dispose of this petition.

**SMT. M. S. JAWALKAR,J**

**M. S. SONAK, J.**

mv

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VISHAL  
BHOIR

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