

Niti

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO.4 OF 2022

CECILIA SEBASTIANA DE ALMEIDA
E OLIVEIRA

...PETITIONER

Versus

ANETTE SYLVIA AND ANR.

...RESPONDENTS

Mr. Nilesh Takkekar, *Advocate for the Petitioner.*

Mr. Pravin Faldessai, *Additional Public Prosecutor for the Respondent No.1.*

CORAM: MANISH PITALE, J.

DATED: 8th February 2022

ORAL ORDER :

1. Heard Mr. N. Takkekar, learned Counsel appearing for the petitioner and Mr. P. Faldessai, learned Additional Public Prosecutor appearing for respondent no.2.

2. By this petition, the petitioner is aggrieved by an order dated 14.12.2021, passed by the Court of Additional Sessions Judge – I (FTC), Panaji, in Criminal Revision Application No.44/2021, whereby while issuing notice in the revision application the said Court has called for the Records and Proceedings.

3. It is specifically submitted on behalf of the petitioner (original complainant) that she is a senior citizen, aged 86 years and that delay in decision in the revision application would be to her detriment. It is submitted that the respondent no.1 has filed the said revision application before the aforesaid Court challenging order dated 20.11.2019, passed by the Court of Chief Judicial Magistrate, Panaji, whereby process has been issued in the complaint filed by the petitioner for offences under Sections 420, 423 and 406 of the IPC.

4. It is submitted that there was no application of mind on the part of the said Court while simply issuing notice and calling for the Records and Proceedings. It is submitted that in terms of the second prayer made in the Writ Petition, the aforesaid Court be directed to dispose of the revision application in a time bound manner.

5. Considering the nature of grievance raised before this Court and the submission made on behalf of the petitioner, this Court is of the opinion that it is not necessary to issue notice to respondent no.1. The directions that this Court proposes to issue while disposing of the present Writ Petition would enure to the benefit of the respondent no.1 – original accused also.

6. Since the order of the Chief Judicial Magistrate dated 20.11.2019 has been made subject matter of challenge in the revision application before the aforesaid Court, this Court refrains from making any comments thereon. But, this Court is unable to appreciate that the aforesaid Court found it necessary to call for the Records and Proceedings while simply issuing notice in the revision application. There can be no doubt about the fact that calling for the Records and Proceedings from the Court of the Chief Judicial Magistrate would not only stall the proceedings before the Magistrate, but would also result in unnecessary delay in disposing of the revision application pending before the aforesaid Court.

7. There is nothing on record to show that the aforesaid Court found it fit to give any interim order in the pending revision application. This further shows that direction to call for Records and Proceedings has the effect of virtually stalling the proceedings before the Magistrate, which in the opinion of this Court is unnecessary.

8. It is also in the interest of respondent no.1 (original accused) that the revision application preferred by her is disposed of expeditiously.

9. In view of the above, the Writ Petition is disposed of by directing the aforesaid Court, that is the Court of Additional Session Judge – I (FTC), Panaji, to dispose of the revision application, i.e. Criminal Revision Application No.44/2021 expeditiously and in any case by 30.04.2022. The said direction is being given, *inter alia*, on a statement made by the learned Counsel for the petitioner that as per the latest update on the CIS, it is stated that the revision application is now to be listed for further consideration on 22.06.2022. The said Court will proceed to consider revision application expeditiously and, as directed above, it shall be ensured that the same is disposed of on or before 30.04.2022.

10. The said Court shall not insist upon calling for the Records and Proceedings. The petitioner shall place on record, of the aforesaid Court, photocopies of all the relevant documents concerning the proceedings pending before the Magistrate. The respondent no.1 would also be at liberty to place on record copies of documents to assist the aforesaid Court in disposing of the revision application in the time stipulated above.

11. With these observations, the Writ Petition is disposed of.

12. It is made clear that if the Records and Proceedings from the Court of the Magistrate is already received before the aforesaid Court, it shall be sent back forthwith.

MANISH PITALE, J.