

Vinita

IN THE HIGH COURT OF BOMBAY AT GOA.

CRIMINAL WRIT PETITION NO. 103 OF 2022.

GOVIND ATMARAM KUBAL ... Petitioner.
VS
JANARDAN ZARAPKAR THR.
MANAGING PARTNER ...Respondent.
SHARADCHANDRA ZARAPKAR

Mr. A. Naik, Advocate for the Petitioner.

CORAM: G. S. KULKARNI, J.
DATE: 19 SEPTEMBER 2022.

P.C.:

1. This petition has been filed challenging the order dated 6 September 2022 passed by the learned Additional Sessions Judge (FTC-1) Panaji whereby Criminal Revision Application No.17/2021 filed by the applicant/accused stands dismissed. The criminal revision was filed by the petitioner assailing an order dated 26 October 2018 passed by the learned JMFC in Criminal Case No.OA/17/NIA/2016/D, in proceedings under Section 138 of the Negotiable Instruments Act. Such order came to be passed on an application made on behalf of the

applicant to the effect that the complainant be permitted to produce Deed of Reconstitution of Partnership dated 2 November 2009 which was ordered to be produced by the Court, as the petitioner/accused had earlier objected to the presence of one of the partners of the complainant on the ground that there was no document on record authorizing such partner to appear for the complainant which is a partnership firm so as to have an enforceable debt. The said application of the complainant was opposed by the petitioner/accused on the ground that the complainant had failed to produce the said document at the time of filing the complaint and, hence, the petitioner/accused contended that there was no contract between the accused and the partnership firm. It was the contention of the petitioner/accused that said document was being produced by the complainants in order to fill up a lacuna in the complaint and hence such application ought to be rejected. It was also contended that the document was not registered as per the provisions of the Partnership Act and the same was not admissible in evidence. It was also contended that the Deed of Partnership is not registered.

2. The learned trial Judge, however, did not find favour on such

contentions as raised on behalf of the petitioner. The learned trial Judge observed that the objection of the petitioner/accused in exhibiting the document on the ground that it is an unregistered document was without substance as it was a settled law that merely exhibiting the document does not prove the contents of the same and as to what weightage should be given to the said document shall be considered at the time of appreciation of the document.

3. Being aggrieved by such order, the applicant approached the Court of learned Additional Sessions, Judge. The learned Additional Sessions Judge, by the impugned order, has rejected the petitioner/accused revision application.

4. I have heard learned Counsel for the petitioner/accused. I have also perused the record and the impugned orders passed by the Courts below.

5. In my opinion, considering the nature of the orders passed by the learned trial Judge and also considering the fact that no prejudice whatsoever would be caused to the petitioner/accused as all contentions of the petitioner/accused on the document, which is being exhibited are kept open to be canvassed at the time of trial. The

learned trial Judge has rightly observed that merely exhibiting the documents does not prove the contents of the same and as to what weightage should be given to the document would be certainly considered at the trial of the proceedings.

6. I find no case as made out by the petitioner for interference in the impugned orders. Writ Petition stands summarily dismissed. No costs.

G. S. KULKARNI,J.

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