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IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL MISC. APPLICATION NO.63 OF 2021
AND
CRIMINAL REVIEW APPLICATION NO.728 OF 2021 (F)

ARUN KUMAR SHARMA

... Applicant.

Versus

THE SUPERINTENDENT OF
POLICE, NORTH GOA AND 4 ORS.

... Respondents.

Applicant in person.

Mr. Pravin Faldessai, Additional Public Prosecutor *for Respondent*
Nos.1 and 2.

CORAM: M.S. SONAK &
R.N. LADDHA, JJ.

DATED: 25th January 2022

ORAL ORDER: (PER M.S. SONAK, J.)

1. Heard Mr. Sharma who appears in person (Review Petitioner) and Mr. Pravin Faldessai, learned Additional Public Prosecutor for Respondent Nos.1 and 2.

2. Today, the matter is posted before us to consider the Petitioner's application for condonation of delay of five days in instituting the review petition. The Petitioner, however, points out that the Hon'ble Supreme Court has made several orders extending the period of limitation on account of the Covid pandemic. He, therefore, submits that there is no

delay in instituting the review petition which should be heard on merits. At least prima facie, we find merit in the contention of Mr. Sharma that there is no delay in the institution of the review petition given the various orders made by the Hon'ble Supreme Court, extending the period of limitation. Therefore, we permitted Mr. Sharma to make his submissions on the merits of the review petition.

3. Mr. Sharma submits that Respondent Nos.4 and 5 are harassing the Petitioner. He submits that these Respondents have committed criminal offenses, and therefore, this Court was not right in holding that the disputes between the Petitioner and these Respondents have only a civil profile. He submits that wrong statements were made by Respondent Nos.4 and 5 in their counter-affidavit filed before this Court in Criminal Writ Petition No. 222/2019. He submits that the observations in the order dated 11.02.2020 of which review is applied, are bound to influence the Civil Courts who are dealing with the civil disputes between the parties. He submits that all these are good grounds for reviewing the Judgment and Order dated 11.02.2020 disposing of Criminal Writ Petition No.222/2019.

4. We have considered the submissions of Mr. Sharma. However, we are not inclined to exercise our review jurisdiction based on the grounds urged by him. Based on the material on record, we, by our Judgment and Order dated 11.02.2020, declined to interfere with orders dated 20.09.2019 and 16.03.2019 made by the learned Sessions Judge and Judicial Magistrate First Class, dismissing the Petitioner's application under Section 156(3) of Cr.P.C. seeking a direction for registration of an FIR against the

Respondent Nos.4 and 5. On consideration of the rival contentions, in our Judgment and Order dated 11.02.2020, we also observed that the two orders neither suffer from any perversity nor any jurisdictional error. We also endorsed the concurrent findings recorded by the two courts that the dispute had an essentially civil profile.

5. The ground that the Petitioner allegedly continues to be harassed by Respondent Nos.4 and 5 is not a ground for reviewing our Order dated 11.02.2020. Similarly, whilst disposing of Criminal Writ Petition No. 222/2019, we have not gone by the counter-affidavit filed by these Respondents, but rather, we have only examined whether the material before the learned Judicial Magistrate First Class and the learned Sessions Judge was sufficient for making the orders which were impugned before us in Criminal Writ Petition No.222/2019. This is, therefore, not a ground for review.

6. There is no question of the Civil Court being influenced by any observations made in the orders impugned before us in Criminal Writ Petition No.222/2019 or our order dated 11.02.2020 of which review is applied for. In our order, we have time and again made it very clear that the observations in the impugned orders or for that matter, our order dated 11.02.2020 should not influence the proceedings before the Civil Court, and the Civil Court will have to decide such proceedings on their own merits and in accord with the law, based on evidence that the parties will produce before the Civil Court. We also clarify that the observations were only in the context of deciding Petitioner's application under Section

156(3) of the Cr.P.C. and not for any other purpose. To that extent, we had even allowed the Petitioner's petition partly. Therefore, the apprehension that is now expressed is neither real nor will it constitute a good ground for review and our Judgment and Order dated 11.02.2020.

7. This review petition is therefore dismissed. There shall be no order as to costs.

R.N. LADDHA, J.

M.S. SONAK, J.