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IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION NO. 13 OF 2023
IN
CRIMINAL REVIEW APPLICATION NO. 43 OF 2023 (F)

WITH
CRIMINAL REVIEW APPLICATION NO. 43 OF 2023 (F)
IN
CRIMINAL REVISION APPLICATION NO. 16 OF 2022

ARUN KUMAR SHARMA	...	APPLICANT
Vs.		
THE SUPERINTENDENT OF POLICE, NORTH GOA & 4 OTHERS	...	RESPONDENTS

Review Petitioner/Applicant in person.

Mr. Pravin Faldessai, Additional Public Prosecutor for
Respondent Nos. 1, 2 and 3.

CORAM: B.P. COLABAWALLA, J.

DATED: 13th FEBRUARY 2023

ORAL ORDER:

1. The above Application [CRMA No. 13/2023] is filed seeking condonation of delay of approximately 81 days in filing the above Criminal Review Application.

2. I have heard the Review Petitioner/Applicant who appears in person and for the reasons stated in the Application, the delay is condoned and Criminal Miscellaneous Application No. 13 of 2023 is accordingly disposed of.

3. At the request of the Review Petitioner/Applicant, the Review Application is taken on Board for Admission.

4. The above Criminal Review Application is filed seeking to modify and/or to set aside the order dated 26.09.2022 passed by this Court in Criminal Revision Application No. 16/2022. Consequently, it is also prayed that appropriate orders or directions be passed to set aside the order dated 20.09.2019 passed by the Principal District Judge, Panaji and the order dated 07.05.2022 passed by the very same Court in a Review Application filed by the Review Petitioner before the said Court.

5. I have heard the Review Petitioner/Applicant, who appears in person. He has tendered the judgment of the Hon'ble Supreme Court in the case of **Ganesh Patel Vs. Umakant Rajoria [2022 Live Law (SC) 283]** to contend that even in criminal proceedings, an Application for recall is maintainable when it is an Application seeking procedural review.

6. In the facts of the present case, I find that this Review Application is wholly misconceived. In the present case, the Review Petitioner/Applicant had filed an Application under Section 156(3) of the Cr.P.C. before the Trial Court. The Trial Court rejected the said Application by an order dated 16.03.2019. Against the said order, the Review Petitioner approached the learned Sessions Judge, North Goa in Criminal Revision Application No. 27/2019, which also came to be rejected by an order dated 20.09.2019. The learned Sessions Judge, while confirming the findings as recorded by the Trial Court, observed that no case was made out by the Review Petitioner to set the criminal law in motion. It was observed that the dispute between the parties was of a civil nature.

7. Being aggrieved by the order passed by the learned Sessions Judge [dated 20.09.2019], the Review Petitioner/Applicant approached this Court by filing Criminal Writ Petition No. 222/2019. The learned Division Bench of this Court partly allowed the Criminal Writ Petition vide its order dated 11.02.2020. However, the Division Bench confirmed the findings recorded by the Trial Court as also, the findings by the learned Sessions Judge by making observations, more particularly, as set out in paragraphs 6, 7, 8 as well as paragraphs 11 and 12 of its decision

dated 11.02.2020. Thereafter, the Review Petitioner/Applicant also filed a Review Application before the Division Bench seeking a review of the order dated 11.02.2020. This Review Application was also dismissed by the Division Bench by the order dated 25.01.2022.

8. Despite this, the Applicant, filed another Criminal Review Application before the Sessions Judge, Panaji, seeking a review of the order dated 20.09.2019. The learned Sessions Judge declined to review his own order. Being aggrieved by the same, the Review Petitioner filed the above Criminal Revision Application challenging the order passed by the Sessions Judge, Panaji.

9. This Court vide its order dated 26.09.2022 [the order under review] heard the Petitioner in person and thereafter, passed the order. This Court categorically held that in the light of the order passed by the Division Bench of this Court in Criminal Writ Petition No. 222/2019, there was no question of a review being maintainable before the Sessions Judge. This Court opined that even otherwise, considering the order passed by the Division Bench of this Court in Criminal Writ Petition No. 222/2019, it was crystal clear that this Court had confirmed the findings recorded by both the Courts below, thus, clearly indicating that the orders of

the lower Courts had attained finality. The learned Judge, therefore, dismissed the Criminal Revision Application. It is this order of dismissal which is asked to be reviewed in the above Review Application.

10. After carefully going through the papers and after hearing the Review Petitioner at some length, I find that this is one more attempt by the Review Petitioner/Applicant to somehow initiate criminal action against Respondent Nos. 4 and 5. I find that this Criminal Review Application is wholly misconceived. What the Applicant seeks is not a procedural review as laid down by the Hon'ble Supreme Court in the case of **Ganesh Patel** [supra], but, wants to basically re-argue his matter once again. This is not the scope of a review and certainly not in criminal matters. In this view of the matter, I find that this Review Application is devoid of merit. The Review Application is accordingly dismissed.

11. Looking at the facts of the case, under normal circumstances, I would have dismissed the above Review Application with heavy costs as this is a clear waste of judicial time. However, considering that the Review Petitioner appears in person, purely out of mercy, I refrain from doing so. In these circumstances, there shall be no order as to costs.

12. This order will be digitally signed by the Private Secretary/
Personal Assistant of this Court. All concerned will act on
production by fax or email of a digitally signed copy of this order.

B.P. COLABAWALLA, J.

VAIGANKAR
ESHA SAINATH

Digitally signed by
VAIGANKAR ESHA SAINATH
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