

Vinita

**IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL WRIT PETITION NO.15 OF 2023.**

RAJESH SAVAIKAR AND 5 ORS. ... Petitioners.
VS
STATE OF GOA THR. THE PUBLIC
PROSECUTOR AND ANR. ...Respondents.

Mr. A. Tirodkar, Advocate for the Petitioners.
Mr. S. G. Bhobe, Public Prosecutor for the Respondents.

CORAM: M. S. KARNIK, J
DATED: 20th MARCH 2023

P.C.

1. Heard learned Counsel for the petitioners and learned Public Prosecutor for the respondents/State.
2. Learned Public Prosecutor argued in support of the impugned order.
3. Petitioners are accused persons in the criminal case pending before the learned Judicial Magistrate, First Class "D" Court at Margao, for an offence punishable under Sections 143, 147, 148, 342, 504, 323 read with Section 149 of the Indian Penal Code. It is essentially the accusation of the prosecution that the accused have assaulted the complainant with a wooden danda. During the course of examination of the witnesses, two applications were filed by the prosecution at Exh.63-D and Exh.88-D under Section 242 of Cr.P.C. to produce additional documents. In the application at Exh. 63-D,

the prosecution relied upon the order passed in Second Appeal no.101/2009 and Second Appeal No. 102/2009 which was in respect of a civil dispute between the complainant and the accused. In the application below Exh 88-D, prosecution sought to produce an additional document i.e. an appeal memos in the Appeals. It is material to note that in the present case there is no evidence of criminal trespass alleged. The accusations, as mentioned earlier, are in respect of an assault by the accused persons to the complainant by a wooden danda. The trial Court allowed these applications. In my opinion, the documents, the production of which is allowed, have no bearing with the accusations made by the complainant as the factum of an assault on the complainant is to be established by the prosecution. The evidence of the witnesses is sought to be recorded. In any case, additional documents which are sought to be produced are copies of the judgments passed by this Court and the appeal memos in respect of the Second Appeals. The Court can always rely upon the certified copies of the documents which are essentially Court records, if later it is found to be absolutely necessary. The impugned order is therefore, set aside.

4. Writ Petition is allowed in terms of prayer clause(a).

M. S. KARNIK J.

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