

Maria S.

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL WRIT PETITION NO.105 OF 2023

Ramakant Subrao Shetye

... Petitioner

Versus

State thr. Public Prosecutor And
Anr

...Respondents

Mr Kher Ceazer Simoes, Advocate *for the Petitioner.*

Mr S. G. Bhole, Public Prosecutor *for Respondent No.1.*

Mr Kautuk Raikar, Advocate *for Respondent No.2.*

CORAM:
DATED:

PRAKASH D. NAIK, J
9th OCTOBER, 2023

P.C.

1. The petitioner is de-facto complainant. The limited grievance made in this petition is with regards to dismissal of the application for further investigation preferred by the petitioner before the trial Court for non-prosecution.
2. Learned advocate for the petitioner submitted that there were several circumstances as a result of which the advocate representing the petitioner was not present in the Court which are spelt out in this application.
3. Learned advocate for respondent (original accused) submitted that the application preferred by the petitioner itself

was not maintainable. The de-facto complainant has no locus to prefer application for further investigation under Section 173(8) of CrPC.

4. Since the application preferred by the petitioner was dismissed by the trial Court for non-prosecution, the same can be restored. All contentions with regards to maintainability of the application by the de-facto complainant can be kept open.

ORDER

- (i) Criminal Writ Petition No.105 of 2023 is allowed.
- (ii) The order dated 04.08.2023 is set aside the application preferred by the petitioner is restored to file.
- (iii) The trial Court shall decide the application for further investigation in accordance with law.
- (iv) All contentions including the objection relating to locus/maintainability of the application by the de-facto complainant are kept open to be decided by the trial Court in accordance with law.
- (v) Criminal writ petition stands disposed of.

(PRAKASH D. NAIK, J.)

MARIA SUZANA REBELLO Digitally signed by MARIA SUZANA REBELLO
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