

Shakuntala

**IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL APPEAL NO. 03 OF 2024**

MR. RAGHU C. GOMES,
Age 53, Married, Service,
Indian National, R/o: Hno:284,
CurcaCaturi, Tiswadi-Goa

... APPLICANT

Versus

1. STATE OF GOA,
Through its chief secretary,
Secretariat, Porvorim, Goa
(DELETED AS PER ORDER
DATED 27.02.2024.)

1. DEPUTY SUPERINTENDENT
OF POLICE, Office of Superintendent
of Police, North Goa, Porvorim, Goa.

2. THE STATION-IN-CHARGE,
Old Goa Police Station, Tiswadi, Goa.

3. Mr. Pandit Krishna Murari Tiwari,

4. Mrs. Pandit Krishna Murari Tiwari,

5. Mr. Marcel Aloysius Remedios,

6. Mrs. Usha V. Prabhu Verlekar,

7. Mr. V. Prabhu Verlekar,
All residents of Sonarbhat,
Verem, Reis Magos, Bardez, Goa.

8. Mr. MahendraDharwadkar,
Resident of Panjim, Goa.

... RESPONDENTS

Mr. Parikshit Sawant, Advocate for the Appellant.
Mr. Pravin Faldessai, Additional Public Prosecutor for
Respondent Nos. 1 and 2.
Ms. Ashwini Agni with Ms. Afrin Harihar Khanm for

Respondent Nos. 3 to 7.

Mr. C.A. Ferreira with Mr. Sujay Kamulkar, Advocates for the Respondent No. 8.

CORAM:- BHARAT P. DESHPANDE, J.

DATED :- 30th April, 2024

ORAL JUDGEMENT

1. Heard finally with consent. Admit.
2. Mr. Sawant learned counsel appearing for the Petitioner invited attention to Section 14A of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities Act) under which an appeal is filed wherein the Appellant is entitled to challenge even an order passed by the Court which is not being an interlocutory order.
3. Mr. Sawant submits that the Special Court by accepting the report of the Police Officer for grant of 'A' Summary, closed the proceedings which is not an interlocutory order but a final order.
4. Though the objections have been raised with regard to maintainability of the present appeal, the provision of Section 14 A of the said Act is very clear. Accordingly, the appeal is maintainable against the impugned order of accepting 'A' Summary.
5. As far as merits are concerned, the appeal could be disposed of at this stage itself, for the simple reason that the impugned order passed by the Special Court is only one line order thereby accepting 'A' summary report and granting the request of the of the

investigating agency.

6. Mr. Sawant has pointed out that after the report was filed before the learned Special Court under Section 173 of Criminal Procedure Code, with the prayer to grant 'A' Summary, a notice was issued to the Complainant. The Complainant appeared before the learned Special Court and raised objections by filing an application dated 14.02.2020. Mr. Sawant would submit that by this application the Appellant has raised various objections with regard to the procedure as required to be followed under the said Act and improper investigation. However, the learned Special Court failed to consider such objections or to give reasons for rejecting such objections.

7. The impugned order passed on 28.01.2021 would go to show that the learned Special Court without giving any reason allowed the request of grant of 'A' Summary as prayed by the Investigating Agency. Admittedly, the Complainant was called upon to give his objections. Though the Complainant raised certain objections vide its application dated 14.02.2020, there are no reasons forthcoming in the impugned order as to whether the Special Court considered such objections. The impugned order further shows that no reasons are given for even rejecting such objections raised by the Complainant.

8. It therefore shows clear non application of mind with regard to the objections raised by the Complainant and even the prayer for grant of 'A' Summary. It is settled proposition of law that the order must be a reasoned order and if reasons are not disclosed, such order needs to be quashed and set aside.

9. In the present proceedings, the only option with this Court is to quash and set aside the impugned order and to remand the matter to the Special Court with a direction to hear the Complainant and the Prosecutor and to decide the request of grant of 'A' Summary, together with objections raised by the Complainant vide his application dated 14.02.2020 afresh and decided it in a time bound manner.

10. It is made clear that the Respondents who are the persons against whom the complaint was filed have no say in the proceedings before learned Special Court for the purpose of grant or refusal of 'A' Summary. Thus, the decision shall be only after hearing the learned Prosecutor and the Complainant. However, it is made clear that all contentions of the Respondents as well as of the Complainant are kept open in case any adverse orders are passed by the Special Court.

11. It is necessary to note here that this Court has not gone into the merits of the matter, since the matter needs to be remanded to

the Special Court.

12. The Criminal Appeal is therefore, partly allowed. The impugned order is quashed and set aside. The final report filed under Section 173 of the Criminal Procedure Code before the Special Court is to be decided afresh after hearing the learned Prosecutor and the Complainant within a time bound manner i.e. on or before 30.06.2024.

13. The appeal stands disposed of in above terms.

BHARAT P. DESHPANDE, J.