



vinita

IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL MISC. APPLICATION NO.209 OF 2019

WITH

STAMP NUMBER MAIN NO.1803 OF 2019 (F)

CRIMINAL MISC. APPLICATION NO.209 OF 2019

FREDERICK PEREIRA, THR. HIS
ATTORNEY, ANTONIO PEREIRA.,

... APPLICANT

Versus

THE STATE OF GOA, THR. PUBLIC
PROSECUTOR AND ANR.,

... RESPONDENTS

WITH

STAMP NUMBER MAIN NO.1803 OF 2019 (F)

FREDERICK PEREIRA, THR. HIS
ATTORNEY, ANTONIO PEREIRA.,

... PETITIONER

Versus

THE STATE OF GOA, THR. PUBLIC
PROSECUTOR AND ANR.,

... RESPONDENTS

Mr Ryan Menezes, Ms Gina Almeida and Nigel Fernandes,
Advocate for the applicant.

Mr Gaurish Nagvekar, Addl. Public Prosecutor for the respondent
no.1.

Mr Sahil Sardessai and Mr Mark Valadares, Advocate for respondent
no.2

CORAM:- BHARAT P. DESHPANDE, J.

DATED :- 19th August, 2024

P.C.

Heard Mr Ryan Menezes, learned counsel for the applicant, Mr
Gaurish Nagvekar, learned Addl. Public Prosecutor for respondent
no.1 and Mr Sahil Sardessai, learned counsel for respondent no.2.

2. This is an application seeking leave to file an appeal thereby

challenging the judgment passed by the learned Magistrate rejecting the complaint filed under Section 500 of IPC.

3. Mr Menezes, learned counsel appearing for the applicant submits that respondent no. 2 filed a complaint before the Police Inspector of Quepem Police Station thereby making false imputations against the applicant preferably in paragraphs 7 and 8. He submits that such false imputations are defamatory and made without any inquiry or without any bonafide attempts.

4. Mr Menezes submits that learned Magistrate has failed to consider this aspect and acquitted respondent no. 2 only on the ground that the case falls within the exception no. 8 and 9 of Section 499 of IPC. Mr Menezes submits that the learned Magistrate failed to consider the evidence produced on record and more particularly the evidence of the applicant. He submits that there is no material on record to show that respondent no.2 made such imputations with bonafide belief, to officer who is supposed to take action. He submits that burden is on respondent no. 2 to show that his case comes within the exception and plea of good faith is required to be demonstrated by respondent no. 2.

5. Perusal of the impugned order would go to show that the learned Magistrate observed that case falls within the exception 8 and 9 of Section 499 of IPC. However, it is also a fact that there is no discussion as to how and on what material, such findings are arrived at.

6. Accordingly, request for grant of leave to file appeal needs to be allowed.

7. Application for leave to file appeal is therefore allowed.
8. Registry is directed to register the appeal challenging the impugned judgment.
9. Application stands disposed of.

BHARAT P. DESHPANDE, J.