



Meena

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL REVISION APPLICATION NO.17 OF 2023
WITH
CRIMINAL REVISION APPLICATION NO.654 OF 2023 (F)

CRIMINAL REVISION APPLICATION NO.17 OF 2023

EUARMIYA GURAYE AND 4 ORS

... APPLICANTS

Versus

~~**STATE THR. ANTI NARCOTIC CELL**~~

~~**POLICE STATION AND 3 ORS**~~

... RESPONDENTS

**Central Bureau of Investigation of Goa, Bambolim,
Goa**

WITH

CRIMINAL REVISION APPLICATION NO.654 OF 2023 (F)

NARESH VISHWANATH MHAMAL AND ANR

... APPLICANTS

Versus

STATE THR. ANTI NARCOTIC CELL

POLICE STATION AND 2 ORS

... RESPONDENTS

Mr. S.D. Lotlikar, Senior Advocate with Ms. Marushka de Monte Furtado, Mr. Terence Sequeira, Mr. S.Fernandes, Ms. P. Volvoikar and Mr.N. Shirgaonkar, Advocates for the Appellants in CRIR No.17/2023.

Ms Asha Desai, Special Public Prosecutor for Respondent No.1.

Ms C. Collasso and Mr. A. Gavandalkar, Advocate for Respondent No. 2.

Mr. S.G. Bhobe, Public Prosecutor for State in CRIR No.654/2023(F).

Mr. Pravin Faldessai, Additional Public Prosecutor for State in CRIR No.17/2023.

CORAM:- BHARAT P. DESHPANDE, J.

DATED :- 19th November, 2024

P.C.:

1. Heard learned Counsel for the parties.

Correction
carried out as
per Order dated
06/01/2025

2. The present revision applications were filed challenging the order passed by the NDPS Court dated 03/08/2023. The Applicants who are the Police Officers challenged the said order on the ground that no case is made out against them for the offences punishable under Sections 20, 21 and 22 of the NDPS Act so also the other offences which are basically the offences under IPC.

3. While considering the arguments advanced and the query raised by this Court as far as the applicability of the offences punishable under Sections 20, 21 and 22 of NDPS Act. Ms. Desai appearing for the CBI would submit that such offences under the NDPS Act would not be attracted as far as the Applicants are concerned. She submits that, on instructions, the Investigating Officer has confirmed that at the most only the offences under IPC could be attracted.

4. On perusal of the impugned order would go to show that apart from the offences of the IPC Sections, the Applicants have been charged for the offences punishable under Sections 20, 21 and 22 of the NDPS Act.

5. Considering such observations and the statement made on behalf of the CBI, the only recourse available to this Court is to remand the matter to the learned NDPS Court to reconsider the submissions and hear the arguments as far as framing of charge against the present Applicants who are original accused Nos.2 to 8.

6. It is made clear that the original Accused No.1 who is Respondent No.2 is discharged by the learned trial Court by the impugned order itself. Admittedly, there is no challenge raised on behalf of the CBI against such an order of discharge. Thus, it is made clear that the observations of the learned trial Court, as far as Applicants are concerned, are required to be looked into afresh. The only recourse is now available to this Court is to remand the matter qua the Applicants and direct the trial Court to rehear the matter as far as the framing of charge is concerned since it is now contended on behalf of CBI that Sections 20, 21 and 22 of NDPS Act are not attracted against the present Applicants.

7. For the above reasons, the order of the trial Court directing framing of charge against the present Applicants is hereby quashed and set aside and the matter is remanded to the learned NDPS Court, Mapusa to hear the Applicants afresh and decide the matter in accordance with law.

8. Needless to mention that such a hearing should be expedited since the original matter is of the year 2010. Accordingly, the learned trial Court should conduct the hearing on the aspect of framing of charge against the present applicants as early as possible and decide it afresh.

9. It is made clear that this Court has not gone into the contentions

raised on merit. All contentions of all the parties are therefore left open.

10. Revision Applications stand disposed of in the above terms.

BHARAT P. DESHPANDE, J.