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IN THE HIGH COURT OF BOMBAY AT GOA

CRIMINAL REVISION APPLICATION NO. 11 OF 2015

Mr. Domnic D'Souza, s/o late Shri.
Lawrence D'Souza, major of age, social
service, resident of House No. 302/4,
Tropa Waddo, Sodiem, Siolim, Bardez-
Goa.

... PETITIONER

Versus

1) The Police Inspector, Anti
Corruption Bureau, Directorate of
Vigilance, Sera Bldg., Altinho,
Panaji, Goa.

2) The Superintendent of Police,
Anti Corruption Bureau,
Directorate of Vigilance, Sera
Bldg., Altinho, Panaji, Goa.

3) The public Prosecutor, High Court
of Bombay at Panaji, Goa.

... RESPONDENTS

Mr. Kapil Kerkar, Advocate for the Petitioner.

Mr. S.G. Bhobe, Public Prosecutor for the Respondents.

CORAM: AVINASH G. GHAROTE, J.

DATED: 4th MARCH 2024

ORAL JUDGMENT:

1. Heard Mr. Kerkar for the Applicant and Mr. Bhobe for the
Respondents.

2. The Revision questions the order dated 20.09.2014 passed by the learned Special Court for CBI at Mapusa in Criminal Miscellaneous Application No. 12/2014 rejecting the request of the Applicant for issuing process under Section 156(3) of the Cr.P.C.

3. The reasons for rejection, is indicated in paragraphs 13 and 14 of the impugned order, which are reproduced as under:

“13. In the complaint, the Applicant has made a vague allegation that the construction has been done the Sarpanch and Deputy Sarpanch by collecting “popular contribution”. This statement is based on the statement made by the Block Development Officer in his letter dated 25.5.2010. The statement made by the Block Development Officer does not find support from the report made by inspection team. None of the contributors who had allegedly contributed to said popular contribution, have made any grievance about the swindling of the funds, allegedly collected by way of “popular contribution”.

14. Although in the complaint, it is stated that the funds have been misappropriated, there are even no details about who had collected the funds, when these funds were collected, from whom these funds were collected, and what is the amount of the funds collected. Based on a vague allegation made in the complaint, that there is misappropriation of funds, it will not be appropriate to order investigation. It is

clear from the correspondence on record, that this construction was not undertaken by the Panchayat. Question of Panchayat passing a resolution with respect to the same, therefore, does not arise.”

4. It is the contention of Mr. Kerkar, learned Counsel for the Applicant that there was sufficient material on record to indicate the existence of cognizable offence so as to enable the learned Special Court to issue process under Section 153. It is contended that funds were collected by popular contribution by gram Panchayat of Sodiem-Siolim, out of which, illegal construction of road was being carried out in the property under Survey Nos. 268/1, 268/2, 273/99 and 273/100 of village Sodiem, Siolim, which properties stood recorded in the name of Custodio Mariano Fernandes and Lina Fernandes, which construction according to the learned Counsel for the Petitioner was without sanction/approval. A report by the BDO dated 25.05.2010 is the basis for such claim, which states that during the site inspection on 30.04.2010 at 4:30 p.m., it was observed that the compound wall had been constructed within the road widening area and the retaining wall had been constructed on the nallah side in Survey Nos. 268/1, 273/99 and 273/100, of which, measurement had been taken and panchanama was drawn.

5. The R & P has been received. A perusal of the complaint dated 10.05.2011 by the Petitioner would indicate that though several applications under the RTI have been filed by him, for seeking relevant information in that regard, in reply, it has been stated that the same is not available. Except for the report of the BDO abovesaid, nothing has been placed on record to demonstrate that any of the members of the gram panchayat had committed any acts which could constitute cognizable offences. Learned Counsel Mr. Kerkar has been unable to point out any material to indicate that any of the members of the gram panchayat had ever demanded any funds from any persons. Neither the names of such persons are given nor is the quantum stated. Only general and vague allegations have been made regarding demand of popular funds and funds from the public at large and misappropriation of these funds for the purpose of the above construction. The original complaint as well as the documents attached to it, do not indicate any concrete material which would be sufficient enough for the learned Special Court to hold the commission of the cognizable offence and therefore, I am agreeable with the findings of the learned Special Court in paragraphs 13 and 14 of the impugned order.

6. The impugned order rather on the contrary, in paragraph 12 categorically records that the construction was done not by the

gram panchayat, but by the owner of the properties named above, as is indicated in paragraph 12 of the impugned order. Nothing has been pointed out to enable me to take a different view than what has been taken by the learned Special Court. The Petition is without any merits and is accordingly dismissed.

AVINASH G. GHAROTE, J.