



Meena

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL WRIT PETITION NO.66 OF 2021

NIGEL BENEDICTO RODRIGUES

... PETITIONER

Versus

**STATE, THR. POLICE INSPECTOR,
MARGAO TOWN POLICE STATION, MARGAO
AND ANR**

... RESPONDENTS

Mr. Raviraj Chodankar, Advocate for the Petitioner.

Mr. Gaurish Nagvenker, Additional Public Prosecutor for
Respondent No.1.

Mr. T. Pereira, Advocate for Respondent No.2.

CORAM:- BHARAT P. DESHPANDE, J.

DATED :- 15th July, 2024

P.C.:

1. Heard Mr. Raviraj Chodankar, learned Counsel for the Petitioner, Mr. Gaurish Nagvenker, learned Additional Public Prosecutor for Respondent No.1 and Mr. T. Pereira, learned Counsel for Respondent No.2.

2. Though this petition was filed in the year 2021, there is no stay granted by this Court with regard to the proceedings decided by the trial Court.

3. Respondent No.2 filed a complaint that the Petitioner is trying to

build a road in the paddy field which belongs to Respondent No.2. Since there was a possibility of occurrence of a cognizable offence, proceedings were filed before the Deputy Collector and SDM, Margao in the year 2019 itself. The SDM passed an order directing that Respondent No.2 is entitled to the possession of the said property until he is evicted there from in the due course of law.

4. The Petitioner filed a revision against such order which was partly allowed by the learned Sessions Court on 26/08/2021. In the revision, the impugned order was modified with regard to the possession and the Petitioner was permitted to follow the process of law for the purpose of eviction of Respondent No.2.

5. Though the present petition is filed challenging that the order of SDM was passed without giving an opportunity to the Petitioner, the fact remains that the dispute is between the owner and the so called tenant of the property and the orders passed by the Magistrate are only for the purpose of preventing the commission of any cognizable offence. Since the situation at the relevant time is now eased out, the purpose of keeping such a petition and deciding it on merit will be futile as the parties are required to approach the concerned jurisdictional Civil Court for the purpose of deciding their rights. The learned Revisional Court has therefore observed that the possession of Respondent No.1 will be subject to the proceedings of eviction which the Petitioner is required to take in the above Court of law.

6. Mr. Chodankar submits that no civil proceedings have been filed till date. Accordingly, the petition stands disposed of with liberty to the concerned parties to approach the jurisdictional Court for redressal of their right by a Court of competent jurisdiction.

7. Petition stands disposed of in the above terms.

BHARAT P. DESHPANDE, J.