



Santosh

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL WRIT PETITION NO.17 OF 2018

RAJU GAWAS., ... PETITIONER
Versus
MILTON CAMILO RODRIGUES AND ANR., ... RESPONDENT

Shri Sandesh D. Padiyar, Senior Advocate with Shri Prayash Shirodkar and Ms A. Rane, Advocates for the Petitioner.
Shri Arjun F. Naik, Advocate for Respondent No.1.
Shri Pravin Faldessai, Additional Public Prosecutor for Respondent No.2.

**CORAM:- M. S. KARNIK &
VALMIKI MENEZES, JJ.**

DATED :- 26th August, 2024

P.C.:

1. Heard Senior Advocate Shri Padiyar for the Petitioner, learned Advocate Shri Naik for Respondent No. 1 and learned Additional Public Prosecutor Shri Faldessai for Respondent No.2.

2. By this Petition under Article 226 of the Constitution of India, read with Section 482 of the Code of Criminal Procedure, 1973, the Petitioner has prayed for quashing and setting aside the impugned order dated 28/11/2017 passed by the Court of Judicial Magistrate, First Class, at Mapusa in Criminal Misc. Application No.215/2017/B. The Petitioner has further prayed for a direction under Article 226 of

the Constitution of India to quash and set aside the FIR No.398/2017 registered at the Mapusa Police Station.

3. The learned Counsel for the Petitioner invited our attention to the complaint made by Respondent No.1-Milton Camilo Rodrigues to the Police Inspector and Officer-in-Charge of Mapusa Police Station, which is at page 31 of the paper book against the Petitioner who was the then Chief Officer of the Mapusa Municipal Council, for committing offences punishable under Sections 166, 167, 417, 420, 466, 467, 468, read with 34 of the IPC. In the light of the submissions made across the Bar, we are not referring to the allegations made in the complaint, in detail. The dispute pertains to the transfer of house tax in the name of Respondent No.1's mother, which Respondent No.1 claims to be illegal and made clandestinely by the Petitioner, without his knowledge and behind his back. The complaint was filed as far back as in the year 2017.

4. There is no dispute that there are civil disputes pending between Respondent No.1 and his mother relating to the issue of the house tax which the Petitioner claims was illegally transferred. There have been some subsequent developments. The learned Counsel, on instructions of Respondent No.1 who is personally present in the Court, submits that though Respondent No.1 has been subjected to harassment and inconvenience as a result of such illegal transfer, in all fairness says that since civil proceedings are already pending, and with the passage

of time, Respondent No.1 does not wish to pursue the complaint which is made, a copy of which is at page 34 of the paper book and consequently, not interested in prosecuting the proceedings initiated under Section 156(3) of Cr.P.C.

5. Considering the stand taken by Respondent No.1, no purpose will be served in continuing the proceedings in the Trial Court any further which will be an exercise of futility. In this view of the matter, the Petition is allowed in terms of prayer clauses (a) and (b) of the Petition. Needless to mention, the civil proceedings initiated between the parties will proceed on their own merits, and in accordance law, without being influenced by any observations made in this order. All contentions of the parties in the civil proceedings are kept open, to be decided independently on its own merits.

6. We clarify that the FIR registered pursuant to the order of the Magistrate under Section 156(3) of Cr.P.C. dated 28/11/2017 is quashed qua the Petitioner and the persons mentioned therein in the facts of this case considering the fair stand of Respondent No.1.

7. The Petition is disposed of.

VALMIKI MENEZES, J.

M. S. KARNIK, J.