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IN THE HIGH COURT OF BOMBAY AT GOA.

CRIMINAL WRIT PETITION NO. 34 OF 2026

RAF SEQUEIRA REPRESENTED BY ITS
PARTNERS.

...PETITIONERS

~ VERSUS ~

JOSE ALIAS JOS ROGER FERNANDES
AND ANR.

...RESPONDENTS

APPEARANCES:

for the Petitioner.

*Mr Aurobindo Gomes Pereira,
Advocate.*

for the Respondent Nos. 1

*Mr Iftikhar Agha, Advocate with Mr
Utkarsh Sawant, Advocate.*

for the Respondent No.2

Mr S. G. Bhobe, Public Prosecutor.

CORAM : AMIT S. JAMSANDEKAR, J.

Reserved on : 10th April 2026.

Pronounced on : 21st April, 2026.

ORDER

1. By the present petition, the Petitioner challenges the order dated 28.02.2025 passed by the learned Additional Sessions Judge-3, Panaji, (*the learned Sessions Judge*) whereby Criminal Revision Application No. 61/2024 filed by the Petitioner came to be dismissed as not maintainable. The said revision application had been preferred against the order dated 22.07.2024 passed by the learned Judicial Magistrate First Class, 'E' Court, Panaji (*the learned Magistrate*).
2. The facts giving rise to the present petition are as follows:
 - i) The proceedings arise under Section 138 read with Section 141 of the Negotiable Instruments Act, 1881. The Petitioner filed a complaint on 19.01.2017 before the learned JMFC, 'E' Court, Panaji, against the 1st Respondent.
 - ii) The Petitioner led his evidence in the proceedings. In his examination-in-chief, statements were made regarding the constitution/reconstitution of the Petitioner's partnership firm, namely R.A.F. Sequeira.
 - iii) CW-1 was cross-examined by the 1st Respondent on 12.12.2022 and 17.08.2023. In the course of the cross-

examination dated 17.08.2023, the witness, *inter alia*, made certain statements which are as follows:-

‘I say that the deed of reconstitution of partnership dated 25.06.2014 was cancelled and another deed of reconstitution was drawn and executed. I say that I have not disclosed the fact of cancellation of reconstitution either in my complaint, verification.

I say that based on the cancelled deed of reconstitution deed of partnership at Exh.C-45 I have filed the complaint before the Court.

I say that the complaint lodged by me based on the cancelled deed of reconstitution of partnership is not valid. I say that since the deed of reconstitution at Exh.C-45 is cancelled the clauses of partnership at Exh.C-44 would not attract.

I say that the general power of attorney at Exh.C-42 given to me is based on the cancelled deed of reconstitution at Exh.C-45.

I say that the partner RAF Sequeira expired on 18.06.2014 and the deed of reconstitution was done on 25.06.2014 which was subsequently cancelled.”

- iv) The cross-examination was thereafter continued on 04.03.2024 and concluded on the same day.
- v) In the meantime, the Petitioner filed an application dated 03.11.2023 seeking re-examination of CW-1. The said application was opposed by the 1st Respondent.
- vi) The application was filed on the ground that it was necessary to seek clarification/explanation in respect of the statements made by the Petitioner during the cross-examination dated 17.08.2023.
- vii) According to the Petitioner, it is therefore necessary to get a clarification/explanation as to how these two statements, one made in chief and the other in cross, can stand together.
- viii) This constituted the sole basis of the application. It was further stated that the application was filed under Section 138 of the Indian Evidence Act.
- ix) This application was dismissed by the learned Magistrate inter alia on various grounds and held at paragraphs 11 to 15 thus:-

“11. The complainant is seeking for re-examination on the fact that in the complaint the complainant has stated that the Deed of Reconstitution was dated 25/06/2014, but in

his cross he has deposed that the said Deed of Reconstitution was cancelled and another Deed of Reconstitution was drawn and executed.

12. *Under the re-examination what the party calling a witness can do is only get explanation is required of any matter which has come up in the cross examination.*

13. *I have perused the cross examination of the complainant where the complainant has spoken about the Deed of reconstitution dated 25.06.2014 being cancelled and another Deed of reconstitution was drawn and executed.*

14. *As rightly contended by the Ld. Adv. for the Accused the same is a clear admission on the part of the complainant, moreover, under the garb of the re-examination a party cannot retract its admission and hence, the present application cannot be sustained.*

15. *Hence, I pass the following;
Application at Exh. D-62 is rejected."*

x) Aggrieved thereby, the Petitioner preferred a revision before the learned Sessions Judge.

- xi) The learned Sessions Judge dismissed the revision on the ground that the impugned order was interlocutory in nature and, therefore, not revisable.
- xii) In paragraph 14 of the impugned order, the learned Sessions Judge has recorded that the Order dated 22.07.2024 has not resulted in immediate termination of the criminal complaint as the matter will take its own course as provided under Chapter 22 of Cr.P.C. Therefore, the Order dated 22.07.2024 is an interlocutory order for all purposes. Hence, as per the mandate of Section 397(2) of Cr.P.C. revision is not maintainable against an interlocutory order.
- xiii) The Learned Counsel for the Respondent No.1 relied upon the decisions in the case of ***Yogendra Singh Dohrey Vs State of U.P., 2010 ALJ (SUPP) 816, Sethuraman Vs Rajamanickam, 2009 AIR SCW 2066, Rajesh Chandivale Vs The State of Goa, Criminal Writ Petition No. 23/2006 dated 28.09.2006 and Girish Kumar Suneja Vs Central Bureau of Investigation, (2017) 14 SCC 809.***

3. I have heard learned Counsel for the Petitioner and the 1st Respondent.

4. Mr. Pereira, Learned Counsel for the Petitioner submitted that the impugned order has resulted in violation of the principles of natural justice and is contrary to the binding precedent of the Hon'ble Supreme Court. It is further submitted that the order passed by the learned Magistrate is an intermediate order and not an interlocutory order. He contended that the Petitioner is entitled to explain the contradictions in his evidence. He reiterates the grounds raised in the application for re-examination filed before the learned Magistrate. The submissions proceed on the basis that, admittedly, there are contradictions in the evidence, and therefore re-examination ought to be permitted in the interest of justice and for a proper adjudication of the proceedings.
5. Mr. Pereira cited *Madhu Limaye Vs State of Maharashtra*, AIR 1978 SC 47, *Amar Nath and others Vs State of Haryana and others*, AIR 1977 SC 2185, *Varsha Garg Vs State of Madhya Pradesh and ors*, AIR 2022 SC 3707, *Central Bureau of Investigation Anti Corruption Branch Vs Valiveti Venkata Narasima Sastry and anr*, Criminal Writ Petition No. 54/2025 dated 22.8.2025, *Rajendra Prasad Vs Narcotic Cell through its Officer-in-charge, Delhi*, AIR 1999 SC 2292, *Rammi alias Rameshwar Vs State of M.P.*, 1999 CRI. L. J. 4561, *Honnaiah*

T.H. Vs State of Karnataka and others, Criminal Appeal No. 1147 of 2022 (Arising out of SLP(Crl) No. 2021 of 2022) dated 4.8.2022 ***and Nagindas Ramdas Vs Dalpatram Locharam alias Brijramand and others***, AIR 1974 SC 471, in support of his submissions.

6. He further submitted that a party is entitled to re-examination to explain or clarify admissions made during cross-examination and cited ***Ramni @ Rameshwar vs. State of Madhya Pradesh***, (supra) and ***Nagindas Ramdas vs. Dalpatram Ichharam @ Brijram and others***, (supra), in support of his submissions.
7. The petition is vehemently opposed by Mr. Agha, learned Counsel appearing for the 1st Respondent. It is submitted that the order passed by the learned Magistrate is clearly interlocutory in nature, as it does not result in termination of the proceedings under Section 138 of the Negotiable Instruments Act. It is, therefore, contended that the learned Sessions Judge has rightly dismissed the revision application as not maintainable.
8. I have perused the orders passed by the learned Magistrate as well as the learned Sessions Judge. I have also gone through the record produced by the parties for the purpose of the present hearing.

9. The application filed by the Petitioner seeking re-examination after conclusion of cross-examination is based solely on the ground that the statements made during cross-examination require clarification and explanation. Such a course is not permissible by invoking Section 138 of the Indian Evidence Act. As rightly observed by the learned Sessions Judge, Section 138 merely prescribes the order of examination of witnesses, whereas the Code of Criminal Procedure governs the procedure of criminal trials.
10. In any case, I am in agreement with the finding of the learned Sessions Judge that the order passed by the learned Magistrate has not resulted in termination of the criminal complaint and is, therefore, interlocutory in nature.
11. Furthermore, the admissions made by the Petitioner during the course of cross-examination, having regard to their nature, do not warrant any clarification or explanation by way of re-examination. Because, as rightly submitted by learned Counsel for the Respondent, such admissions create substantive rights in favour of the accused, and cannot be diluted by permitting re-examination at this stage under the guise of Section 138 of the Evidence Act.
12. In view of the above, the judgments relied upon by the Petitioner are not applicable to the facts and circumstances of the present case.

13. Therefore, I am not inclined to exercise jurisdiction under Article 227 of the Constitution of India.
14. The petition stands dismissed. However, there shall be no order as to costs.
15. Interim relief, if any, stands vacated.
16. This order will be digitally signed by the Private Secretary/Personal Assistant of this Court. All concerned will act on the production by fax or email of a digitally signed copy of this order.

[AMIT S. JAMSANDEKAR, J.]