

CRIMINAL MISCELLANEOUS APPLICATION NO. 149 OF 2002

Shri Dattatraya Surti,
r/o Model Complex,
Taleigao, Goa.

... Petitioner

Versus

S T A T E
Through Shri V.P. Khandolker,
Labour Inspector,
Junta House, Panaji, Goa,

... Respondent.

Shri U. K .Tari, advocate for the applicant.

Shri A. P. Lawande, Public Prosecutor for the State.

CORAM: P. V. KAKADE, J.

DATE: 28th November, 2002.

ORAL ORDER

By consent taken up for final hearing.

I have heard learned counsel for the petitioner as well as the State. Perused the record.

2. The petitioner has come with a case that the respondent filed a labour criminal cases against him before the Special Judicial Magistrate, North Goa, Panaji. On receipt of summons, he appeared before the Magistrate and his plea was recorded, in which course he claimed to be tried. The trial in all nine cases was directed to be held in common. The evidence of the respondent was completed and at that time, the respondent State moved an application to examine a witness and for production of documents vide application dated 16th October, 2001.

According to the petitioner, the learned Special Judicial Magistrate allowed the said application vide Order dated 26th February, 2002, by which he was aggrieved and filed revision application against the said Order before the learned Sessions Judge, North Goa at Panaji.

The learned Sessions Judge without issuing notice to the respondent, dismissed the revision application on the ground that it was not maintainable. According to the petitioner, this has resulted in gross injustice against him and, as such he has filed this petition under Section 482 of the Code of Criminal Procedure, 1974, praying for setting aside the Order dated 26th February, 2002, passed by the Special Judicial Magistrate, in the labour cases pending against him and for allied reliefs.

3. A perusal of the record shows that the learned Sessions Judge has rightly dismissed the revision petition filed by the petitioner on the ground that it was purely an interim order against which the revision could not lie. It was also observed that the trial Court had allowed the application filed by the Public Prosecutor to examine the witness cited in the said application. By all stretch of imagination I fail to understand as to how prejudice is caused to the petitioner, when the learned Magistrate has allowed the State to examine witness and produce certain relevant documents on record, especially when it is

obvious that the petitioner would get an opportunity to cross-examine the witness on the basis of his testimony as well as the documents, if produced on record. In short, I am satisfied that this application is nothing but a delay tactic on the part of the petitioner and, in fact, would amount to abuse of the process of law. In other words, there is absolutely no reason why the provisions of Section 482 of the Code of Criminal Procedure should be invoked to assist the cause of the petitioner in such circumstances.

Therefore, without further elaboration, I hold that this application is not maintainable in law and, as such, stands dismissed.

P. V. KAKADE, J.

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