

Meena

IN THE HIGH COURT OF BOMBAY AT GOA
PUBLIC INTEREST LITIGATION (SUO MOTU) NO. 2707 OF 2022(F)

HIGH COURT ON HIS OWN MOTION ...Petitioner

Versus

THE STATE OF GOA ... Respondent

Mr. J.E. Coelho Pereira, Senior Advocate with Mr. Nigel Da Costa Frias and Mr. Ryan Menezes, Advocates.

Mr. D. Pangam, Advocate General with Mr. Deep Shirodkar, Additional Government Advocate for the Respondents- State.

Mr. S.S. Kantak, Senior Advocate – Amicus Curiae.

**CORAM: M. S. SONAK &
BHARAT P. DESHPANDE, JJ.**

DATED: 14th December, 2022.

P.C.:

The Managing Committee of The Goa High Court Bar Association, in its extraordinary meeting held on 10/12/2022, took cognizance of an incident of assault on a practicing Advocate Shri Gajanan Sawant on 08/12/2022. In this meeting, the Association resolved as follows:

“Extract of the Extraordinary Meeting of the Managing Committee held on 10/12/2022 at the chambers of the President of the Goa High Court Bar Association, Shri. J. E. Coelho Pereira

The agenda of the meeting was to consider the untoward incident and the grievous assault by police officials/staff on a practicing advocate, Shri. Gajanan Sawant, on 08/12/2022. The

untoward incident by the officials/ staff of the Porvorim Police Station in brutally assaulting and using excessive force on an advocate in question who went to the site, at the request of his client, is highly deprecated and condemned.

After deliberation and discussion, it was felt that the police authorities ought to have been cautious and circumspect in a civil dispute.

Whilst acknowledging the fact that a first information report has been registered by the police at the instance of the wife of Shri Gajanan Sawant, the victim, after due deliberation the Committee felt that is not enough. There are many questions that the in charge of the Porvorim Police Station has to answer to the Legal Fraternity, as to whether there was any complaint of a cognizable offence lodged before the Police Station, for them to act and go to the site in question, and assault the advocate concerned, whether they could do so in a civil dispute and whether the use of excessive force was justifiable, no matter what the provocation, if any, was.

Therefore, in this context, whilst condemning the acts of the officials/staff of the Porvorim Police Station and expressing solidarity with the victim, the Association requests the Home Minister, who is presently the Chief Minister, the Law Minister and the Director General of Police of the State, that a Magisterial Inquiry be conducted by the District Collector, and the concerned police officials/staff, if prima facie found to be guilty of misuse of authority, that they be put to suspension and also relegated to a Department Inquiry, and the First Information Report, be thoroughly investigated, and the erring police officials be brought to trial/justice expeditiously and within a short period of time.

As the actions of the police officials/staff, irrespective of its merits, is a violation of human rights and a serious threat to functioning of the legal fraternity. It is therefore resolved to forward copies of this resolution for information and necessary action to the Hon. Chief Justice, High Court of Bombay and the

Hon. Senior Administrative Judge at Goa, the Hon. Principal District & Sessions Judge, North Goa, the Hon. Chief Minister of Goa, the Hon. Law Minister of Goa, the Chief Secretary and the Directorate General of Police, Goa, for emergent and expeditious action, and an answer from the Goa Police, to the queries raised.

For the Goa High Court Bar Association

*Sr. Adv. J. E. Coelho Pereira
President*

*Adv. Gaurish N. Agni
Secretary”*

2. The above Resolution was addressed to the Senior Administrative Judge and on 13/12/2022, some members of the Bar mentioned this matter, urging this Court to take suo motu cognizance. It was pointed out that the Advocate community was quite disturbed by the assault and there were agitations all over the State because it was perceived that adequate action was not being initiated against the police officials allegedly involved in the assault.

3. The Registry also placed on record several newspaper reports concerning the assault and the lawyers' agitation on the issue.

4. Considering that such incidents and their follow-up affect the administration of justice, the matter was registered as Suo Motu Public Interest litigation No.2707/2022 (Filing) and directed to be placed on the board for 14/12/2022.

5. Accordingly, we have heard briefly some members of the High Court Bar Association including its President Mr. J. E. Coelho Pereira. We have also heard the learned Advocate General for the State of Goa.

6. Since we are of the opinion that this matter should not be treated as an adversarial litigation, we request Shri Subodh Kantak, learned Senior Advocate of this Court to assist us as an Amicus Curiae. Mr Kantak who is present in the Court has graciously conceded to this proposal.

7. Further, we have also requested the High Court Bar Association to place on record a formal petition along with a compilation of documents and other matters which they wish the Court to consider. This will assist not only the Court but also the respondents whom we propose to notice. If the Association wishes to rely on the compilation of precedent/judgments, they should, if possible, furnish it by the next date.

8. In the meanwhile, we direct the impleadment of the following parties as respondents to this Suo Motu Public Interest Litigation:

1. State of Goa
through Chief Secretary
Government of Goa, Secretariat,
Panaji , Goa.
2. Director General of Police Goa
Goa Police Headquarters,
Opp. Azad Maidan, Panjim-Goa.
3. Superintendent of Police,
Crime Branch Police Station,
Ribandar, Goa.
4. Mr. Virendra Veluskar (Investigating Officer)
Police Inspector,
Crime Branch Police Station,
Ribandar- Goa.

5. Mr. Marcus Gomes
Police Constable,
Porvorim Police Station,
Porvorim- Goa.
6. Mr. Amrut Nagvekar,
Police Constable,
Porvorim Police Station,
Porvorim- Goa.
7. Mr. Mahadev Naik
Police Constable,
Porvorim Police Station,
Porvorim- Goa.
8. Mr. Sandeep Parab,
Police Constable,
Porvorim Police Station,
Porvorim- Goa.

9. We also issue notices to the above respondents, returnable on 21/12/2022. Since this is a Suo Motu Public Interest Litigation, the Registry to issue these notices along with a copy of the High Court Bar Association's Resolution.

10. By the next date, the State should file a preliminary affidavit apprising the Court of steps taken in the matter. Along with the affidavit, the State should also produce a copy of the Hurt Certificate, if any, and other relevant medical case papers concerning Advocate Gajanan Sawant. If possible, a copy of such affidavit to be furnished to the learned Amicus Curiae by 20/12/2022.

11. Mr Pereira, the President of the Association states that he will

address the Court on behalf of the Association. Since we understand that several other Advocates Associations have also raised issues of assault on Advocate Gajanan Sawant, we think that such Associations should present their version and other suggestions on this issue through the learned Amicus Curiae.

12. In this matter, we request the learned Advocate General and the learned Public Prosecutor to assist the Court. Stand over to 21/12/2022.

BHARAT P. DESHPANDE, J.

M. S. SONAK, J.