

Exbt. D-4

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18/11/22



IN THE COURT OF THE SESSIONS JUDGE AT
PANAJI-GOA

Cri. Misc. Appl. No. /2022

IN

Cri. Rev. Appl. No. 90/2022

Mr. Juliuscessor Chamban Vareed,
s/o Varghese Chamban Vareed,
age about 51 years, Indian National,
Resident of Building No.24,
Flat No. FR/2, Miramar.
Goa 403 002

.....

PETITIONER

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Versus

1. Mr. Daniel Pedro A. Fernandes,
age about 72 years, Indian National,
Resident of House No. 209,
Baixo de Igreja,
St. Lourenco de Agacaim,
Ilhas, Goa *Deceased*

Through his proposed legal heirs

1a. Mrs. Maria Daniel Fernandes (wife)

1b. Mrs. Daniella Exalta Carvalho
Fernandes (daughter)

1c. Mr. Martin Antonio Rohit
de Jesus Fernandes (Son in Law)

All r/o House No. 196/1, 3rd Ward,
Fatona, Colva, Salcete, Goa 403 708

2. S T A T E

[Through Public
prosecutor Panaji Goa]

.....RESPONDENTS

[The registered addresses of
both the parties are as
shown in the cause title]

APPLICATION FOR STAY

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MAY IT PLEASE YOUR HONOUR:

The Applicant above named most respectfully states as under:

1. The applicant states that today he has filed a petition **u/s 397 Cr.P.C** before this Hon'ble Court against the impugned order dated **08/08/2022** passed by the Ld. Judicial Magistrate First Class "E" Court, Panaji, Goa in Cri. Case No. **OA/370/2019/E**.
2. The applicant craves leave of this Hon'ble Court to refer and rely on the averments made in the said petition **u/s 397 of Cr.P.C**.
3. The applicant states that the impugned order dated **08/08/2022** passed by the Ld. J.M.F.C "E" Court, Panaji, Goa in Cr. Case No. **OA/370/2019/E** is **bad in law, improper and erroneous** and therefore the same is to be set aside and quashed.
4. The applicant states that he has got bright chances to succeed in the present petition filed by him as the impugned Order passed by the Ld. Trial Court is totally illegal, bad in law, improper and erroneous.



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5. The applicant states that since the impugned Order passed by the Ld. Trial Court, Panaji, Goa is bad in law, it is absolutely necessary to set aside and quash the Order passed by the Court including to stay further proceeding in the matter which is pending before the J.M.F.C., "E" Court, Panaji Goa in Cr. Case No. OA/370/2019/E.

6. The applicant states that if stay as prayed for is not granted in that event the J.M.F.C "E", Court, Panaji, Goa will proceed further in the matter and as a result of which the present application filed by the applicant will become infructuous and thereby great harm and prejudice will be caused to the applicant and, as such, it is absolutely necessary to stay the operation of Impugned Order and also the further proceedings in the matter which is presently pending before the J.M.F.C "E" Court, Panaji, Goa in Case No. OA/370/2019/E.



In the light of the submissions made herein above it is therefore prayed:

a. **That pending the hearing and final disposal of the present Revision application, the Impugned Order dated**

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08/08/2022 passed by Ld. J.M.F.C, "E" Panaji Court in Cri.
Case No. OA OA/370/2019/E be stayed.

b. That an Ex-parte and ad-interim order in terms of
prayer [a] above be granted.

c. Any other order of this Hon'ble Court which deems
think fit and proper be passed in the circumstances of the case.

Place: Panaji-Goa

Date: 18/10/2022

Applicant

Adv. for the Applicant



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Criminal Revision Application No.90/2022.

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ORDER

(Delivered on this 25th day of the month of November of the year 2022).

Heard Ld. Advocate Mr. M.Telles for the Petitioner. Ld. Advocate presses for the stay of the impugned Order dated 08/08/2022 passed by Ld. J.M.F.C., "E" Court, Panaji in Criminal Case No. OA/370/2019/E.

The impugned Order has permitted the heirs of the Complainant in Case No. OA/370/2019/E to continue with the Complaint after death of the Complainant. The Petitioner has preferred Revision against above Order. The Revision has been successfully registered. If the proceeding continues pending Revision, the Revision will be rendered infructuous. The Petitioner has made out a case for stay of the impugned Order.

Being so, it is ordered that the impugned Order dated 08/08/2022 shall be stayed until further Orders.



Panaji
Dated 25/11/2022

Choru Gauns
(Choru Gauns)
Addl. Sessions Judge &
FTC-1, Panaji.