

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

Criminal Writ Petition No.715 of 2015

Vajid Javed Khan.

.. Petitioner.

Versus

The State of Maharashtra.

.. Respondent.

Shri. D.G. Nagode, Advocate, for petitioner.

Shri. S.A. Ambad, Additional Public Prosecutor, for
respondent.

CORAM: T.V. NALAWADE, J.

DATE : 14th JULY 2015

ORDER:

1) The petition is filed to challenge the order made by the learned Judicial Magistrate, First Class, Ahmednagar in Criminal Application No.142/2015. Revision filed against the said order is also dismissed by the Sessions Court. The application was made under section 457 of the Code of Criminal Procedure for interim custody of the stolen property recovered by police during investigation in CR No.I-10/2015 registered in Topkhana Police Station, Ahmednagar. Both the sides are heard.

2) The crime is registered on the basis of report given by the present petitioner, Wajid Khan. There was incident of house breaking and theft from his house on 15-1-2015. He gave report to police on the same day and he described the articles stolen from his house in the F.I.R. He gave information that he lost as many as 9 articles which were mainly gold and silver ornaments and cash amount of Rs.3.25 lakh.

3) During course of investigation one accused Shankar Netke came to be arrested. He gave statement to police on 19-1-2015 under section 27 of the Evidence Act and on that basis recovery of cash amount of Rs.1.1 lakh and some gold and silver ornaments came to be made. In the seizure panchanama the description of the ornament is given by police. It can be said that the description is not complete in every respect as per requirement of the seizure panchanama. The approximate weight and the value of each ornament is mentioned in the F.I.R. by the present petitioner. The description of the value etc. of the ornaments and the ornaments itself is mentioned. It appears that some confusion was created as one receipt

was produced by the petitioner to show that he is owner of the ornaments and as the description of the ornaments given in the receipt does not tally with the description given in the F.I.R. or the seizure panchanama.

4) Ordinarily, persons and particularly ladies do not preserve receipts and due to some advice received by them in Court, they try to produce some record like receipt in respect of ornaments. In the present case say of the accused was called on the application given by the petitioner and the accused has contended that he is falsely involved in the offence and he has no concern with the articles seized in the matter. Thus, there is only one claimant and that is the petitioner, first informant. In view of these circumstances, this Court holds that interim custody of the articles and also the cash amount needs to be given to the petitioner.

5) In the result, the petition is allowed. Interim custody is to be given to the petitioner of all the ornaments and the cash amount mentioned in the seizure panchanama dated 19-1-2015 except the clothes

mentioned in the panchanama on giving Supurtnama of the value mentioned in the panchanama and subject to condition that the petitioner will produce these articles whenever required and asked by the Court. The petition is disposed of.

Sd/-
(T.V. NALAWADE, J.)

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