

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRI. WRIT PETITION NO. 46 OF 2015

Sudesh Ashok Giri

... Petitioner.

V/s.

State of Maharashtra & Anr.

... Respondents.

Mr. Keshao H. Giri, Advocate for the Petitioner.

Mr. V. B.Konde-Deshmukh, APP for the State.

Mr. Maneesh Dixit a/w. Mr. Prakash Pawar, Advocate for Respondent No.2.

CORAM : M.L.TAHALIYANI,J.

DATE : 20th FEBRUARY, 2015

P.C. :

1 Admit. Heard finally.

2 This writ petition impugns the orders passed by the Sessions Court and the Magistrate's Court, refusing to return the amount of Rs. 71,32,500/- (Rs. Seventy-one lakhs thirty-two thousand five hundred) seized by the Hinjewadi Police Station, Pune during the course of investigation of crime no. 170 of 2014.

3 The petitioner's employees were carrying the amount of Rs. 86,00,000/- while traveling from Latur to

Bombay. It is the case of the petitioner that the bus was intercepted by some of the accused and the amount was taken away. The matter was reported to the police. The police recorded the FIR in respect of the theft of Rs. 50,000/-. It appears that after the recovery of the amount of Rs. 71,32,500/-, further statements of the witnesses were recorded and it was alleged in the further statements that the amount stolen was Rs.86,00,000/-(Rs.Eightsix lakhs).

4 It is in these circumstances, the petitioner prayed for return of the seized amount of Rs. 71,32,500/-. Respondent no.2- Suraj Shivaji Raut, who is one of the accused in the above said crime, had also claimed the said amount on the ground that it belonged to him. The learned Magistrate rejected the prayers of both of them. The learned Sessions Court rejected the prayer of the petitioner. Respondent No.2 had not moved the learned Sessions Court.

5 What is noted by this court is that the FIR is in respect of Rs.50,000/- only. The amount of Rs.86,00,000/- has been stated to be stolen, as alleged by the witnesses in their further statements. Therefore, it will be necessary to examine as to how much amount the employees of the petitioner were carrying. It will also be necessary to examine as to why the FIR was lodged in respect of Rs.50,000/- only. The learned counsel for the petitioner contends that the petitioner was

forced by the police to lodge the FIR of a lesser amount. This obviously at this stage cannot be examined. The trial will have to take place immediately. Since the respondent no.2 is also claiming the amount and since his prayer was rejected by the learned Magistrate on the ground that he had manipulated certain documents to show his ownership, it will be just and proper that the trial court shall conclude the trial immediately and shall decide the issue with regard to the disposal of the property also. At this stage, it may be mentioned here that the charge-sheet has already been filed.

6 Hence, the present petition is being disposed of by passing the order as under :

- i. The prayer of the petitioner is dismissed.
- ii. The learned trial court is directed to hold trial of the criminal case arising out of FIR No. 170 of 2014, registered at Hinjewadi Police Station, Pune and shall decide the case within a period of two months from the date of receipt of this order.
- iii. It is directed that the issue with regard to the disposal of the property i.e. the cash amount seized during the course of investigation shall also be decided

immediately after conclusion of the trial alongwith the final judgment.

7 Petition stands disposed of accordingly.

(JUDGE)

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