

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
WRIT PETITION NO.3580 OF 2015

Dinesh Kumar s/o. Krishnagopal Soni and another ... Petitioners
Vs.
State of Maharashtra and another ... Respondents

Mr. A. M. Saraogi for Petitioners.
Mrs. M. H. Mhatre, APP for Respondent No.1-State.
Mr. V. V. Ugle for Respondent No.2.

**CORAM: RANJIT MORE &
R. G. KETKAR, JJ.**

DATE : 09th SEPTEMBER, 2015

PC:

Heard Mr. Saraogi, learned Counsel for petitioners,
Mrs. Mhatre, learned APP for respondent No.1-State and Mr. Ugle, learned
Counsel for respondent No.2.

2. The Petition is filed under Article 226 of the Constitution of India read with the provisions of Section 482 of the Code of Criminal Procedure, 1973 for quashing and setting aside the FIR bearing C.R.No.30 of 2014 registered with Malad Police Station, at the instance of the respondent No.2, for the offence punishable under Section 406 read with Section 34 of the Indian Penal Code, 1860.

3. Pending F.I.R., the parties have settled their dispute amicably.

Under the settlement, parties agree that the recovery made by the police authorities in respect of the gold items be handed over to the respondent No.2 as and by way of full and final settlement of the claim of the respondent No.2. In pursuance of an understanding arrived at between the parties, they have approached this Court for quashing and setting aside the subject F.I.R. by consent.

4. Respondent No.2 has filed an affidavit dated 09.09.2015. In paragraph 2, he has stated that the dispute between himself and petitioners is settled subject to handing over of the gold items to him, recovered by the police authorities from the petitioners. He, therefore, has no objection to quash the subject F.I.R. Respondent No.2 is personally present before the Court. On specific query, he confirms the contents of the affidavit. He also states that he has no objection if the subject F.I.R. is quashed and set aside.

5. Mrs. Mhatre, upon taking instructions from the Investigating Officer, does not dispute that the gold weighing 365 grams was recovered from the petitioners. Learned APP submits that if the petitioners have no objection to handover the said gold to the respondent No.2., the same will be handed over to the respondent No.2 after quashment of the subject F.I.R.

6. It can, thus, be seen that the matter has been amicably settled

between the parties. From the perusal of complaint, it transpires that the allegations are totally personal in nature. Investigating Officer of the subject F.I.R. bearing C.R.No.30 of 2014 is directed to return the gold items weighing 365 gms. to the respondent No.2 within a period of 7 days from the date of receipt of this order.

7. Accordingly, the Petition is allowed in terms of prayer clause (b) subject to payment of costs of Rs.10,000/- by the petitioners to the Tata Memorial Cancer Hospital, Mumbai for the use of its philanthropic purposes. The petitioners shall pay the said costs and produce the receipt thereof on the file of this Court within a period of two weeks from today, failing which, the Petition shall stand dismissed automatically without further reference to the Court.

8. At this stage, Mr. Saraogi, learned Counsel for petitioners submits that both the petitioners are in custody.

9. Since the F.I.R. bearing C.R.No.30 of 2014 is quashed, petitioners are directed to be released forthwith, if not required in any other case.

10. Subject to above, the Petition is disposed of.

[R. G. KETKAR, J.]

[RANJIT MORE, J.]