

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

CRIMINAL WRIT PETITION NO. 3816 OF 2014

Natobar B. Chaudhary

... Petitioner

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr. Chetan Archekar i/b. Mr. A.K. Saxena for the Petitioner.
Mr. S.V. Gajare, A.P.P. for the State.

CORAM : A. V. NIRGUDE, J.

DATE : 16th NOVEMBER, 2015.

P.C. :

While disposing of this Writ Petition, I would like to use powers under Section 482 of Code of Criminal Procedure, 1973 for setting aside and quashing the criminal case initiated by the Petitioner, alleging that offences under Sections 406 and 420 of Indian Penal Code, 1860 are committed. From the narration of the complaint itself, it becomes clear that the transaction in question is clearly a breach of contract and not cheating or misappropriation etc. The Petitioner-complainant came with the case that he agreed to make new gold ornaments for the respondent-accused, on his handing over old ornaments to him. While making new ornaments, petitioner-complainant would add some more gold to the ornaments. The parties admittedly recorded the weight of gold in two registers; one kept with the petitioner-complainant and the

other with the respondent-accused. It so happened that over the months the gold ornaments received by the petitioner-complainant from the respondent-accused weighed less than the gold ornaments, the petitioner-complainant made and supplied to the respondent-accused. At the end of the account, the petitioner-complainant realized that he had supplied gold weighing 263 gms. more to the respondent-accused. He demanded gold or price for it but the respondent-accused somehow avoided to pay back. In view of this, the petitioner issued a legal notice demanding the amount. When the notice did not get proper response, the petitioner lodged criminal case alleging that this was a case of cheating and misappropriation. I am afraid this is purely a civil dispute and the petitioner could have resorted to a civil remedy.

2 The Petition, therefore, stands dismissed. The Criminal Case before the lower Court is quashed and set aside

(A.V.NIRGUDE, J.)