

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 4468 OF 2016

Saifee Tayabali Tavawalla ... Petitioner
Vs.
The State of Maharashtra ... Respondent

Mr. Rajesh A. More, Advocate for the petitioner.
Mrs. Anamika Malhotra a/w. Mr. V.V. Gangurde, APP for the
respondent/State.

CORAM: **MRS.MRIDULA BHATKAR, J.**
DATE: **22nd December, 2016**

P.C.:

In this Writ Petition, the order dated 25th August, 2010 of the learned Judicial Magistrate First Class, Court No. 6, Pune and the order dated 23rd April, 2012 passed by the Additional Sessions Judge. Pune are under challenge. The petitioner is the complainant in C.R. No. 124 of 2010 registered with Khadak Police Station, Pune under section 381 of Indian Penal Code.

2. It is the case of the complainant that cash of Rs.5 lakhs was missing and the said cash was stolen by his servant, who was resident of Kaima Gaon, Uttar Pradesh. Pursuant to the registration of the offence, the police followed the accused and he was caught redhanded with the cash of Rs.4,60,000/-, which was seized by the police under panchnama and the money is lying with the police. So, the complainant filed an

application before the Magistrate for return of property pending trial, however, it was rejected by the learned Magistrate by an order dated 25th August, 2010. Criminal Revision Application No. 581 of 2010 is filed by him before the Additional Sessions Judge, Pune. His prayer of returning the cash, which is a muddemal property in the said criminal case, was rejected by the Additional Sessions Judge, Pune by order dated 23rd April, 2012. Hence, the petitioner is before this Court asking to quash and set aside both the orders and prays that by way of interim relief, this Court be pleased to direct the respondent to return 626 G.C. Notes of Rs.500/- (Old currency), i.e., Rs.3,36,000/- seized from the accused to him unconditionally.

2. The learned counsel for the petitioner has submitted that due to demonetization of old currency notes of Rs.500/- and Rs.1000/-, G.C. Notes of Rs.500/- or Rs.1000/- which form the muddemal and which is seized by the police are to be returned to him so that he can deposit the said G.C. Notes in his account and will not suffer loss. He undertakes that he will produce the said amount at the time of trial in the form of new currency. He further points out that the police have no objection in returning the said amount to him. In support of his submissions, he relied on the observation made by the learned Additional Sessions Judge that P.S.I. has no objection to return the recovered amount.

3. In view of this, the entire amount which is seized by the police of Rs.4,60,000/- which is in old currency are to be returned to the complainant by the concerned police on or before 26th December, 2016.
4. Writ Petition is disposed of.

(MRIDULA BHATKAR, J.)