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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CRM-M-30342 of 2017 (O&M)

Date of decision: December 13, 2017

Rohit Monga

......Petitioner

Versus

State of Punjab and others

.....Respondent

CORAM: HON'BLE MR. JUSTICE A.B. CHAUDHARI

Present: Mr. O.P. Hoshiarpuri, Advocate
for the petitioner.

Mr. Ramandeep Sandhu, Senior DAG, Punjab.

Mr. Sandeep Suri, Advocate
for the complainant.

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A.B. CHAUDHARI, J (Oral)

On request made by this Court, Mr. Sandeep Suri, learned counsel for the complainant-Bank has appeared for Reserve Bank of India and has filed short reply by way of an affidavit on behalf of the respondent-Reserve Bank of India along with Annexure R-1, which is taken on record.

In view of the order dated 05.09.2017, this Court had expressed anguish and the manner in which gold loans are disbursed, the gold having been found to be fake and in the present case, it was stolen from the locker. The public money is lost. Accordingly, now in the following paragraphs, RBI has stated thus:-

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"3. That the relevant instructions issued by Reserve Bank of India to commercial banks with respect to granting of loans against gold ornaments and jewellery are contained in the Master Circular-Loans and Advances-Statutory and other restrictions. As stated therein, commercial banks have to observe necessary and usual safeguards while granting such loans. The banks have been instructed to frame a Board approved loan policy covering advances against gold ornaments and jewellery. In this regard banks have the freedom to prescribe rules for necessary safeguards of these advances. Copy of Master Circular is annexed herewith as ***Annexure R-1.***

4. That the gold ornaments or jewellery are accepted as security/collateral by the commercial banks while granting gold loans. This is similar to security of movable or immovable property taken by banks for other loans. It is in the interest of the commercial bank itself to take adequate care of such security/collateral so that it is in a position to enforce the same, if required. Towards this end, commercial banks may in their own wisdom adopt different measures and mechanisms to ensure protection of the security obtained by it. RBI has not spelt out what specific measures and mechanisms need to be taken by commercial banks. As banks will be taking necessary care of the security held by them, there may not be any necessity for RBI to issue any directions in that regard.

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> *5. That in case any crime is committed by any person in respect of the gold ornaments and jewellery in the custody of bank, the same need to be investigated as in the present case and the guilty punished in accordance with law.*
>
> *6. That the issuance of generalized guidelines by the Reserve Bank of India on the extent of security to be taken by commercial bank for protection of gold given as security will require wider consultation by Reserve Bank of India with various banks and also the Indian Banks Association and other stake holders."*

Reading of the above paragraphs shows that the present state of affairs in accordance with the Banking Regulations Act, the steps which Reserve Bank could provide to prevent the incident. However, it is seen that the Reserve Bank of India has left it to the wisdom of the individual bank/Credit Society/Finance Company giving gold loans to take care of the issue regarding grant of gold loan or in respect of the fake gold deposited with the bank by way of mortgage.

In my opinion, leaving it to the wisdom of individual bank would not serve the public purpose nor the gold and public money with individual banks. The Reserve Bank of India is therefore requested to have some other deterrent step in place or find out methodology to curb the above said menace in which the frauds have been taking place also in connivance with the bank employees. This Court therefore expects Reserve Bank of India would have a re-look

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and a stringent action or regulations whether could be brought to do the needful. P*rima facie* in the opinion of this Court, under the Bank Regulations Act, Reserve Bank of India may be able to do so. It is however left to Reserve Bank of India to act in the public interest.

Interim order dated 21.08.2017 made by this Court in favour of the petitioner, is made absolute.

The petition is disposed of with the above request to the Reserve Bank of India.

(A.B. CHAUDHARI)
JUDGE

December 13, 2017
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Whether speaking/ reasoned: Yes/No
Whether Reportable: Yes/No

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