

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

CRIMINAL WRIT PETITION NO.1315 OF 2016

M/s Shriram City Union Finance Ltd. Petitioner

versus

State of Maharashtra & Ors. ... Respondents

.....

- Mr.V.K. Nair, Advocate for the Petitioner.
- Mrs.P.P. Shinde, APP for the State/Respondent.

**CORAM : R. M. SAVANT &
SARANG V. KOTWAL, JJ.
DATE : 09th APRIL, 2018.**

P.C. :

1. The above Writ Petition has been filed to quash and set aside the order dated 10/02/2016 issued by the Senior Inspector of Police, Dadar Police Station, Mumbai, calling upon the Manager of the Petitioner to deposit 640 packets of gold pledged by the Respondent herein Mr.Naresh K. Jain, in respect of which gold, an offence has been registered u/s 420, 406, 323, 506 II of the Indian Penal Code by one Mohanlal Jain. As also the order dated 19/02/2015 issued by the Inspector of Police, Shahunagar

Police Station, to deposit the packets of gold duly pledged under gold loan Packet No.GL-No.5588 dated 19/08/2014 by the Respondent No.2 Naresh K. Jain.

2. As indicated above the First Information Report has been registered by one Mohanlal Jain, who is a money lender, against the Respondent No.2, who is also a money lender. The allegations as regards the manner, in which the said gold was pledged with the said Naresh Jain, by the complainant, have been succinctly mentioned in the FIR. It is pursuant to the said FIR that the Senior Police Inspectors of the said two Police Stations had issued notices dated 10/02/2016 and 19/02/2015 calling upon the Manager of the Petitioner to deposit the gold in question. It appears that the police had visited the office of the Petitioner No.1 and had carried out verification on 16/07/2015. The Investigating Agency has the necessary powers to do so. As can be seen from the provisions of the Cr.P.C. especially Section 91 of Code of Criminal Procedure, 1973 r/w Section 410 of the Indian Penal Code, having regard to the statements which are

appearing in the FIR, the gold which is in possession of the Petitioners, prima facie, fits the description of 'Stolen Property' as mentioned in the Section 410 of the IPC. We therefore decline to exercise our writ jurisdiction to consider the grant of the relief sought vide the prayer, which have been adverted in the earlier part of this order. Grant of such a prayer in our view would fetter the powers of the Investigating Agency, who are investigating into the alleged offences, wherein the Respondent No.2 herein has been arraigned as an accused.

3. The Petitioner as a responsible and reputed Finance Agency, may cooperate with the Police in the investigation and may take such recourse before the trial Court as is permissible in law, in the event the gold in question, is seized by the Investigating Agency. Subject to the above, we do not find any reason to interdict in our writ jurisdiction. The Writ Petition is accordingly dismissed.

(SARANG V. KOTWAL, J.)

(R. M. SAVANT, J.)