

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

WRIT PETITION NO.3762 OF 2018

Jitendra Gunvantraai Joshi ... Petitioner
v/s
The State of Maharashtra and anr. ... Respondents

Mr S.R. Phanse for Petitioner.
Mr Deepak Thakare, PP with Ms S.D. Shinde for State.
Mr K.Y. Mali for Respondent Nos.2 and 3.

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**CORAM : RANJIT MORE &
SMT BHARATI H. DANGRE,JJ.**

DATED : 19th SEPTEMBER 2018

P.C. :

1 Heard learned counsel for the Petitioner and learned
counsel for Respondent Nos.2 and 3.

2. The Petition is filed for quashing and setting aside the FIR in
respect of C.R. No.177/2018 registered under section 409 of IPC at L.T. Marg
Police Station, Mumbai upon Respondent No.2's complaint against the
Petitioner.

3. The allegations made in the FIR in short are that the Respondent No.2 has a partnership business and they have their shop named as Janhvi Jewellers at Vittalwadi, Mumbai. It is the case of the complainant that they had given raw gold weighing 556 grams to the Petitioner for designing the ornaments and after some days when the complainant requested for the designed gold ornaments, the Petitioner's brother and Petitioner were not traceable. On this allegation, FIR came to be filed under section 409 of IPC.

4. The learned counsel appearing for the respective parties submitted that during the pendency of investigation, with the help and intervention of family members, friends and well-wishers, the parties amicably settled their differences by way of mutual settlement and pursuant to an understanding arrived at between them, present Petition is filed for quashing the above FIR dated 21st August 2018, by consent of Respondents.

5. The Respondent No.2 is personally present in Court. He has filed his affidavit dated 29th August 2018. In paragraph 5, he has stated that he has received an amount of Rs.5,00,000/- (Rupees Five Lakh only) by way of Demand Draft dated 2nd August 2018. He has also stated that the Petitioner and Respondent No.3 have agreed that gold weighting 250 grams which is recovered from L.T. Marg Police Station shall be handed over to the Petitioner's wife. Accordingly, he has given no objection to the subject FIR, Respondent No.3 is also present in Court. On specific query made by us, he

submitted that he has made the said affidavit on his own free will, without there being any pressure and undue influence. He has further confirmed that he has no objection for quashing and setting aside the subject FIR initiated by him against the Petitioner.

6. In the light of the principles laid down by the Apex Court in the aforesaid decision as well as in the case of Narinder Singh vs. State of Punjab (2014 AIR SCW 2065), we are of the considered view that there is no impediment in quashing the subject FIR.

7. Accordingly, Petition is allowed in terms of prayer clause (a).

8. As the Police machinery and Court machinery was used by the parties to settle their private disputes, we find it would be appropriate to saddle the Petitioner with cost of Rs.10,000/- which shall be paid to "**Tata Memorial Hospital**", an institution that takes care of the advanced and terminally ill cancer patients. For the quashment to take effect, the Petitioner shall pay the said cost and produce the receipt thereof on the file of this Court within a period of four weeks from today. Failing to pay cost and produce receipt within stipulated time, Petition shall stand dismissed automatically without further reference to the Court and order quashing the proceedings shall be treated as non-est.

9. Since we have quashed and set aside the subject crime register, the

Petitioner is directed to be released forthwith if not required in any other crime.

(SMT BHARATI H. DANGRE, J.)

(RANJIT MORE, J