

Anand

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

**CRIMINAL APPLICATION NO. 1090 OF 2017**

Ipshita D. Chakraborty .Applicant

Vs.

The State of Maharashtra & ors. .Respondents

Mr. V. S. Babar i/b. Mr. A. P. Ghag, Advocate, for the Applicant  
Mr. S. R. Shinde, APP, for the Respondent No. 1 – State  
Mr. R. B. Mokashi, Advocate, for the Respondent Nos. 2 & 3

**CORAM : REVATI MOHITE DERE, J.**

**DATE : 19.01.2018**

**P.C.**

. Heard learned counsel for the parties.

2. By this Application, the Applicant has impugned the Order dated 31.08.2017 passed by the learned Metropolitan Magistrate, 66<sup>th</sup> Court, Andheri, Mumbai in Misc. No. 319 / N / 2017, by which the Applicant's Application for return of property i. e. Gold ornaments i. e. one Gold Necklace, Gold ear rings & Gold Mang Tika, came to be rejected.

3. Learned counsel for the Applicant states that the Respondents had deposited the said stridhan with the police station and

the said articles were seized under a panchanama, pursuant to an order dated 28.06.2016 passed by this Court in ABA No. 933 of 2016 filed by Dwanit Rajiv Vyas. He submits that the Gold ornaments in questions are the stridhan of the Applicant and hence, the same ought to be returned to the Applicant.

4. Learned counsel for the Respondent Nos. 2 & 3 opposed the Application. He submits that the jewellery belongs to the Respondent No. 3 and not to the Applicant.

5. Perused the papers. The Applicant ( Original Complainant ) had lodged an FIR which was registered vide C. R. No. 91 of 2016 with the Powai Police Station, Mumbai as against the Respondents for the alleged offences punishable under Sections 498A & 406 of the Indian Penal Code. Without going into the merits, whether the Gold ornaments belong to the Applicant or the Respondent No. 3, as the same will be decided by the trial Court, it would be appropriate to direct the Respondent No. 1 – State to return the property i. e. jewellery items (i) one Gold Necklace; (ii) Gold ear rings & (iii) Gold Mang Tika seized by the Respondent No. 1 under a panchanama dated 20.07.2016, to the Applicant on the Applicant executing a supratnama, in the trial Court.

The Applicant undertakes not to sell or create any third party interest in the said items and also undertakes to produce the same as & when required by the trial Court. The Applicant shall file an undertaking to that effect, in the trial Court, before the items are handed over to her. The investigating officer shall take photographs of the said jewellery items i. e. (i) one Gold Necklace; (ii) Gold ear rings & (iii) Gold Mang Tika before the said articles are returned to the Applicant and shall submit the photographs in the trial Court.

6. Accordingly, the Application is disposed of.

All concerned to act on the authenticated copy of this order.

**(REVATI MOHITE DERE, J.)**