

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
WRIT PETITION NO. 977 OF 2016**

|                               |                |
|-------------------------------|----------------|
| Mohammad Nisthar Dawood Lebbe | ...Petitioner  |
| Versus                        |                |
| The Union of India & Ors.     | ...Respondents |

**WITH  
WRIT PETITION NO. 1812 OF 2016**

|                           |                |
|---------------------------|----------------|
| Mumtaz Jafferli & Ors.    | ...Petitioners |
| Versus                    |                |
| The Union of India & Ors. | ...Respondents |

Mr. Sagar Kasar a/w Mr. Amol Wagh for the Petitioners

Mrs. Rati Amrolia, Spl. P.P for Respondent Nos. 3 and 4 in WP/977/2016

Ms. Yasmin N. Katpitia, Spl. P.P for Respondent Nos. 3 and 4 in WP/1812/2016

Mrs. A. S. Pai, A.P.P for the Respondent-State

**CORAM : B. P. DHARMADHIKARI &  
REVATI MOHITE DERE, JJ.  
THURSDAY, 10<sup>th</sup> JANUARY 2019**

**P.C. :**

1            These petitions are argued together pointing out that petitioners are unnecessarily subjected to look out notice or black-listing and therefore are not permitted to visit India again.

2           The respective counsel appearing for Customs Department and Union of India rely upon reply affidavits to show that petitioners are all Foreign Nationals apprehended at airport with undeclared gold. Gold was in raw form and also concealed. In writ petition No. 977 of 2018, it was concealed in in the cavity of a magazine.

3           The manner in which gold was concealed, differs but that is not relevant for present purpose. Quantity of gold seized is also not decisive. For such attempt, punishment prescribed is three years' imprisonment.

4           The petitioners, therefore, have been black-listed by the respondents by following office memorandum issued by the Ministry of Home Affairs (foreigners' division). The said office memorandum divides categories for black-listing into Grade `A', Grade `B' and Grade `C' and also points out method of placing a foreign national into black list.

5           The petitioners have been placed in black list Grade `A'. Grade `A' is for finding, involved in any offence which is punishable by imprisonment of two years and more. Similarly, those who are required to be black listed under U.N. Mandate, can also be placed in this category.

6           Petitioner in writ petition No. 977 of 2016 contends that on 6<sup>th</sup> January 2016, the Department has passed an order and as petitioner is found not a smuggler, the seized gold is directed to be returned to him for its shipment out of India. Similar orders are passed in the other petition.

7           The perusal of order dated 6<sup>th</sup> January 2016 shows that Customs Department then found that person for whom gold was smuggled was not ascertainable and petitioners have claimed its ownership. Thus, concealed gold was claimed to be belonging to themselves by respective petitioners. In this situation, the direction has been issued.

8           The petitioners could not point out to this Court any right in them to seek entry in India. Respondents rely upon large number of visits during the short time by them to India and in reply, submit that possibility of importing gold in country even during such short visits, cannot be ruled out.

9           Petitioners apparently have not explained these frequent visits.

10          As finding of undeclared gold with petitioners and its seizure by Customs Department is not in dispute, we do not see any right in petitioners to question the action of Union of India. We, therefore, dismiss these petitions.

**REVATI MOHITE DERE, J.**

**B. P. DHARMADHIKARI, J.**