

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO.3878 OF 2019

Mukesh Surajmal Jain	...	Petitioner
Versus		
Sudhir Gothi for M/s.Gothi Jewellers & Anr.	...	Respondents

Mr.Rajiv Singh with Mr.Vinayak Vengurlekar with Ms.Meher Minabattiwala and Ms.Sneha Munj i/b. Nair Vengurlekar & Co., Advocate for the Petitioner.

Mr.Sachin Daga, Advocate for the Respondent No.1.

Mr.A.R.Kapadnis, the learned Additional Public Prosecutor for the Respondent No.2/State.

CORAM : A.M.BADAR J.

DATED : 17th DECEMBER 2019.

ORAL JUDGMENT :

1 Heard.

2 Rule. Rule is made returnable forthwith.

3 By this petition, the petitioner is challenging the Order
dated 04/06/2019 passed by the learned Metropolitan Magistrate,
65th Court, Andheri, Mumbai thereby considering the application
dated 28/02/2019 submitted by respondent No.1 herein as the

application for intervention and consequently allowing that application vide the impugned Order dated 04/06/2019.

4 Heard both sides. Perused the application dated 28/02/2019 which is at record page No.114. Paragraph 4 of that application read thus :

“4. It is humbly submitted that the Applicant is not aware of any fraudulent transaction. Therefore, the A/c of the Applicant be unfreezed and payment of Rs.10 Lakhs be released”

Even the title of that application is for releasing the account No.07732560000693 maintained with HDFC Bank, Itarsi. Thus substantive claim is made by the respondent No.1 by moving the application dated 28/02/2019. However, the learned trial Magistrate has erroneously considered the application as the intervention application and was pleased to allow the same by the impugned Order dated 04/06/2019.

5 In this view of the matter, the impugned Order dated 04/06/2019 is quashed and set aside . The learned trial Court is directed to treat the application dated 28/02/2019 filed by respondent No.1 herein as separate application and decide the same in accordance with provisions of law.

6 With this the petition stands disposed of.

(A.M.BADAR, J.)