

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

4 CRIMINAL APPLICATION NO.72 OF 2020
IN APEAL/105/2019 WITH APEAL/105/2019 WITH
APPLN/72/2020 IN APEAL/105/2019
SACHIN @ RAMESH GURULINGAPPA MODE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Mr. S.S. Randive, Advocate for the applicant.
Mr. A.S. Shinde, A.P.P. for respondent No.1./State
Mr. R.S. Gangakhedkar, Advocate holding for
Mr. S.S. Gangakhedkar, Advocate for respondent No. 2.

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CORAM : RAVINDRA V. GHUGE &
B.U. DEBADWAR, JJ.

DATE : 2 November 2020.

ORDER :

1. The applicant seeks release of the Muddemal ornaments. Notice was issued by this Court on 15.01.2020. Appearance was entered on behalf of respondent No.2 on the same date. Thereafter, on 31.01.2020, this Court noted that no reply was filed by the respondents. Yet, a last chance was granted till 13.02.2020 and the matter was adjourned. Even on the said date, no reply was filed, in as much as, the matter was adjourned even on 27.10.2020 at the request of respondent No.2 when the said respondent did not voice that he desired to file a reply.

2. Today, at the stroke of vacation, the learned Advocate for respondent No.2 seeks an adjournment for filing a reply, which is practically after 10 months of the pendency of this application. The learned Advocate for the applicant strenuously opposed the request and stated that when the reply is not filed in last 10 months, the request being made today is purely to seek an adjournment in the matter. It is, in these circumstances, that we have rejected the request of respondent No.2 for an adjournment.

3. We have heard learned Advocate for the applicant, the learned A.P.P. for respondent No.1-State and the learned Advocate on behalf of respondent No.2. The learned A.P.P. opposed this application on the ground that Criminal Appeal No. 105 of 2019 filed by the convict is pending before this Court. Learned Advocate for respondent No.2 submits that unless and until the applicant satisfies the conditions set out in Clause-7 of the operative part of the impugned judgment dated 18.01.2019 delivered in Sessions Trial No. 65 of 2016 below Exh.164, this application may not be allowed.

4. The learned Advocate for the applicant submits that he has all the necessary papers to establish his ownership and satisfy the requirements of Clause-7. He prays

that liberty may be granted to the applicant to approach the trial Court and satisfy Clause-7 so as to be able to take back the jewellery.

5. In view of the above, this application is disposed off with liberty to the applicant to approach the trial Court and satisfy the Court as regards the condition of Clause-7 of the impugned order. We make it clear that the trial Court shall keep in mind the pendency of Criminal Appeal No.105 of 2019 and in the event it arrives at a conclusion that the present applicant can be permitted to take back the ornaments, conditions as may be found fit and proper, may be imposed by the trial Court. One of such condition can be that the applicant would produce the said ornaments in this Court at the final hearing of the appeal or as and when required by this Court.

(B.U. DEBADWAR, J.)

(RAVINDRA V. GHUGE, J.)

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