

Santosh

***IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL WRIT PETITION NO.12 OF 2021***

KRISHAN RATAN TAMBI
AND 5 ORS.

.... Petitioners.

VERSUS

STATE OF GOA, THR. THR
SECRETARY HOME, GOVT.
OF GOA AND 3 ORS

..... Respondents.

Mr. Shirin Naik, Advocate for the Petitioners.

Mr. G. Nagvenkar, Additional Public Prosecutor for Respondent
No.1-State.

Mr. S.M. Singbal with Ms. Samiha Rodrigues, Advocates for
Respondents No.3 & 4.

***Coram : M.S. Sonak &
Smt. M.S. Jawalkar, JJ.***

Date : 19th July, 2021.

P.C. :

Heard Mr. Shirin Naik for the Petitioners, Mr. G. Nagvenkar, the learned Additional Public Prosecutor for the State and Mr. M. Singbal, who appears along with Ms. Samiha Rodrigues for Respondents No.3 and 4.

2. This is a Petition for quashing of the FIR No.97/2015 dated 31/8/2015 registered at Anjuna Police Station, alleging that the Petitioners herein have committed an offence under Section 420, read

with Section 34 of the Indian Penal Code (IPC). The allegation in the complaint is that the Petitioners, with common intention, deposited gold jewellery purported to be having lesser than 40% of gold and pledged the same as genuine and induced the Bank to disburse loans under various gold loan schemes, thereby cheated to the Bank to the extent of ₹ 85.20 lakhs.

3. There are both, civil and criminal proceedings, pending between the parties *i.e.* the Petitioners and Respondents No.3 and 4 (Bank).

4. Today, the learned Counsel for the Petitioners and the Bank, handed in Minutes of the Order, which are taken on record and marked 'X' for the purpose of identification.

5. The Minutes of the Order suggest that the parties have amicably settled their disputes, subject to the terms and conditions which are set out in the Minutes. The Petitioners have given their no objection in Criminal Misc. Application No.311/Rel/2021/G filed by the Bank before the Judicial Magistrate, First Class, at Mapusa, Goa for release of the properties seized (being the gold ornaments) in FIR No. 97/2015. The Petitioners have also declared that the Bank shall be entitled to sell the seized gold ornaments towards realisation of the outstanding dues of the Bank in full and final satisfaction of the gold loan accounts.

6. There is a reference to the civil disputes pending between the parties and the circumstance that a request will be made for speedy disposal of the same and closure of the outstanding loan accounts.

7. The learned Counsel for the Petitioners and the Bank submit that the aforesaid Minutes of the Order may be taken on record and, in terms thereof, the FIR No.97/2015 can be quashed, leaving it open to the parties to pursue their civil disputes.

8. The learned Additional Public Prosecutor, however, submits that this is a case of commercial and financial transactions, having bearing on vital societal interest and, therefore, quashing has to be declined. In support of his contention, he has relied upon a decision in *Parbatbhai Aahir @ Parbatbhai Bhimsinhbhai Karmur & Ors. vs. State of Gujarat* – 2017 All MR (Cri) 4438 (SC).

9. We have considered the submission made by Mr. Nagvenkar, as also the decision in *Parbatbhai Bhimsinhbhai Karmur* (supra) relied upon by him. According to us, there can be no comparison to the facts in *Parbatbhai Bhimsinhbhai Karmur* (supra) and the circumstances of the present case. Here the Bank has taken a conscious decision that it will be satisfied if the gold ornaments are released in its favour and further, the Bank is permitted to sell the same towards the recovery of the gold loans.

10. Accordingly, we see no difficulty in quashing the FIR No.97/2015, subject to the Petitioners paying costs of ₹ 25,000/-, within four weeks from today, to the Goa State Covid-19 Relief Fund. The Petitioners will have to produce on record proof of such payment. Thereupon, FIR No.97/2015 shall stand quashed. The agreement which is arrived at between the Petitioners and the Bank, as reflected in the Minutes of the Order marked at Exhibit 'X', shall also be deemed to be part of this order.

11. This Petition is disposed of in the aforesaid terms.

Smt. M.S. Jawalkar, J.

M.S. Sonak, J.