

HON'BLE SRI JUSTICE ABHINAND KUMAR SHAVILI

W.P.No.21191 of 2020

ORDER:

This Writ Petition is filed seeking the following relief:

to issue a writ, order or direction more particularly one in the nature of writ of Mandamus by declaring the action of respondents in not releasing the Gold ornaments pledged by the petitioners as arbitrary, illegal, high handed and in violation of principles of natural justice and consequently direct the respondents to release the gold and handover the same to the petitioners and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case."

Heard Sri J.Sunitha, learned counsel appearing for the petitioners, and Smt. V.Dyumani, learned Standing Counsel appearing for the respondent-Bank.

It is the case of the petitioners that they have obtained gold loan from the respondent-Bank during the year 2017 and they have repaid the loan amount. Their grievance is that though they have repaid the loan amount, the respondent-Bank is not releasing the gold ornaments.

Learned counsel appearing for the petitioners contended that the husband of the 1st petitioner was employed as an Assistant Manager in the respondent-Bank and the respondent-Bank alleged that the husband of the 1st petitioner had misappropriated the amount of the Bank and repaid the loan availed by the petitioners and, on that

ground, the respondent-Bank initiated disciplinary proceedings against the husband of the 1st petitioner. In that connection, the 1st respondent-Bank has given a complaint against the husband of the 1st petitioner and the same was registered as a case in Cr.No.11 of 2018 of Cheriya Police Station, Siddipet District, and hence, the respondent-Bank is not releasing the gold ornaments in favour of the petitioners.

Learned counsel appearing for the petitioners further contended that if the husband of the 1st petitioner has misappropriated the amount of respondent-Bank, the Bank is at liberty to initiate appropriate disciplinary action against the husband of the 1st petitioner and launch criminal prosecution against him, but the respondent-Bank cannot withhold the gold ornaments of the petitioners even though they have cleared the loan amount. It is further contended that there cannot be any vicarious liability in respect of the Bank's transaction, more so, in service matters where the allegations of misappropriation are leveled against the husband of the 1st petitioner. Learned counsel submitted that the action of the respondent-Bank, in withholding the gold ornaments pledged by the petitioners for availing the gold loan, in spite of the fact that they have repaid the same, is arbitrary and illegal, and therefore, appropriate orders be

passed in the writ petition directing the respondents to release the gold ornaments by duly taking into consideration the fact that the petitioners have cleared the loan amount.

Learned Standing Counsel appearing for the respondent-Bank contended that while the husband of the 1st petitioner was working as an Assistant Manager with the respondent-Bank, he has misappropriated the amounts of the respondent-Bank and cleared the loan amount of the petitioners and, therefore, the respondent-Bank has every right to withhold the gold ornaments pledged by the petitioners and the respondent-Bank has initiated disciplinary proceedings against the husband of the 1st petitioner and also launched criminal prosecution against the husband of the 1st petitioner.

Learned counsel appearing for the petitioners contended that the total worth of gold ornaments pledged with the respondent-Bank is about Rs.10,00,000/-. If the respondent-Bank intends to recover the loan amount from the husband of the 1st petitioner, they are at liberty to do so from the terminal benefits of the husband of the 1st petitioner and initiate appropriate disciplinary proceedings against husband of the 1st petitioner, but the respondent-Bank cannot withhold the gold ornaments of the petitioners in

spite of the fact that the petitioners have cleared the gold loan availed by them.

Having considered the rival submissions made by the learned counsel for the respective parties, this Court is of the view that when the petitioners have cleared the loan amount, the respondent-Bank has no authority to withhold the gold ornaments of the petitioners on the ground that the husband of the 1st petitioner has misappropriated the amount of the respondent-bank. The respondent-Bank is at liberty to initiate disciplinary proceedings and recover the amount said to have been misappropriated by the husband of the 1st petitioner from the terminal benefits including gratuity of the husband of the 1st petitioner. As the respondent-Bank has already initiated criminal proceedings against the husband of the 1st petitioner, the criminal Court would take care of it and there cannot be any concept of vicarious liability fastened on the petitioner under the Service Rules as well as Criminal Jurisprudence.

Accordingly, the Writ Petition is disposed of directing the respondent-Bank to release the gold ornaments of the petitioners by duly taking into consideration the fact that the petitioners have cleared the loan amount. The entire exercise shall be completed as early as possible, preferably, within a

period of eight weeks from the date of receipt of a copy of this order. No costs.

Miscellaneous petitions, pending, if any shall stand closed.

JUSTICE ABHINAND KUMAR SHAVILI

Date: 5.02.2021

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