

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

907 CRIMINAL APPLICATION NO.3867 OF 2018
WITH
CRIMINAL APPLICATION NO.3343 OF 2019
IN
CRIMINAL APPLICATION NO.3867 OF 2018

RATANLAL C. BAFNA JEWELLERS, AURANGABAD THROUGH
ITS MANAGER VINOD S/O. DILIPSING JAIN
VERSUS
REKHA W/O. ABHIJIT KAKDE AND ANOTHER

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Advocate for Applicant : Mr. A. M. Gholap
Advocate for Respondent 1 : Mr S K Adkine
APP for Respondent 2 : Mr. S R Yadav-Lonikar

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CORAM : KISHORE C. SANT, J.
Dated: February 10, 2023

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PER COURT :-

1. By way of this application, the applicant is challenging the order passed by the learned JMFC, Court No.14, Aurangabad directing the police Inspector of Satara Police Station to return the custody of the Gold ingot seized and recovered from the applicant in Crime no.208 of 2018 to the complainant/respondent no.1 in this application.

2. It is the case of the applicant that he runs a jewellery business. The accused in that case had sold gold ornaments to the applicant under the pretext that the ornaments belongs to

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him. Since, he happens to be a police personnel, the applicant had no reason to disbelieve and, therefore, gold was purchased by issuing receipts in due course. However, lateron, a complaint came to be lodged by respondent no.1 and some others in the police station that it was revealed that accused, who was working as police personal, has snatched gold ornaments and those ornaments were sold to the applicant. After complete investigation was carried out, crime no.208 of 2018 was registered. There are six RCC cases going on against the accused. So far as crime no.208 of 2018 is concerned, it was by respondent no.1 and she had applied for return of the gold ornaments, however, by that time all the ornaments purchased by the applicant from accused were transformed either into bar or ingot and as a matter of fact, now all ornaments lost its specific identity. Learned JMFC however, by order dated 19.12.2018 directed to deliver 23 grams gold to the complainant. It is the case of the applicant that, since the ornaments have lost it's ornamental value and are now in the nature of simple bar, no purpose would be served by keeping the custody of the same with the complainant and instead it be handed over to the applicant.

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3. The submission of the respondent no.1 is that, her ornaments were snatched by accused person and in view of that now she has received the gold as ornaments belonging to her and were stolen. As it is it, it was on conditions imposed upon and she has to keep it in safe custody and, therefore, no order is necessary.

4. Learned APP also submits that there is no need to interfere in the application.

5. As it is, the decision or the order in respect of the property needs to be passed at the conclusion of the trial. It would not be for this Court to entertain and pass any order at this juncture when the trial is still going on before the trial court. It is however, made clear that, the learned trial court will pass necessary orders at the conclusion of the trial by keeping in view the rights of the parties. With this, the application is disposed off. This order is strictly passed for the purpose of this application only and shall not be considered as an order passed on merits affecting rights of the parties in any other case.

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6. Pending criminal application also stands disposed off.

(KISHORE C. SANT, J.)

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