



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 1819 OF 2021
IN
CRIMINAL APPLICATION NO. 1361 OF 2016
IN
CRIMINAL APPEAL NO. 1490 OF 2003**

Jitesh Lalitkumar Rajdeo

...Applicant

Versus

State of Maharashtra and others

...Respondents

Mr. Ashutosh R. Gole for the applicant
Mrs. P. P. Shinde, APP for the State

**CORAM : REVATI MOHITE DERE &
GAURI GODSE, JJ.**

DATE : 25th OCTOBER 2023

ORDER: (PER: GAURI GODSE, J.)

1. This is an application filed by the original complainant for return of the gold and other ornaments at Art. 11(collectively) to Art. 58(collectively) and Art. 66.
2. At the instance of the applicant, FIR was registered for offences punishable under sections 302, 201, 394, and 423 read with section

34 of the Indian Penal Code (“IPC”). The applicant had filed the complaint on 2nd November 2001 as the applicant’s parents were found unconscious in the house and valuable articles, including cash, were stolen from the house. The applicant’s parents were declared dead due to severe injuries. It is the applicant's case that during the investigation, gold and other ornaments were recovered from respondent no. 1.

3. After completion of the investigation, a chargesheet was filed, and the same was committed to the Sessions Court. By the Judgment and Order impugned in the aforesaid appeal, respondents nos. 1 and 2 are acquitted for the offences punishable under sections 120-B read with sections 449, under section 302, sections 120B read with 394, 397 and under sections 120B read with 429 of the IPC and under section 11(1) of the Prevention of Cruelty to Animals Act and under section 120B read with section 436 of IPC. Respondents nos. 1 and 2 are convicted for the offence punishable under section 380 of the IPC and sentenced to suffer 7 years of rigorous imprisonment and fine.

4. As per the impugned Judgment and Order, Muddemal property and Art. 11(Collectively) to Art. 58 (Collectively), and Art. 66 was directed to be returned to the applicant after the appeal period was over.

5. The aforementioned appeal is preferred by the State for challenging the acquittal of the respondent nos. 1 and 2 for the offence under section 449 and 302 of the Indian Penal Code. So far as the conviction of respondent nos. 1 and 2 for the offence punishable under section 380 of the Indian Penal Code is concerned, there is no appeal preferred by respondent nos. 2 and 3.

6. Learned counsel for the applicant submitted that the impugned Judgment and Order is dated 25th August 2003. Learned counsel for the applicant submitted that learned Sessions Court had already directed to return Muddemal property to the applicant after the appeal period was over. He submitted that the appeal period is over long back and that there is no appeal preferred by respondent nos. 1 and 2 for challenging their conviction for the offence under section

380 of the Indian Penal Code.

7. Learned counsel submitted that the gold and other ornaments recovered from respondent no. 1 were initially in the custody of the Sessions Court; however, presently, the same is in the custody of this Court. Learned counsel submitted that there are about 48 types of ornaments, as mentioned in the Muddemal register, and most of them are gold ornaments. He submitted that the applicant is the absolute owner of the said gold and other ornaments recovered from respondent no. 1, and he is the only person entitled to receive custody. Learned counsel further submitted that the applicant is in financial difficulty, and hence, he requires the said gold and other ornaments which belong to the applicant.

8. Learned counsel for the applicant further submitted that except the applicant, there are no other claimants of the said ornaments recovered from respondent no. 1 and which are part of the Muddemal property concerning the present case.

9. Learned counsel for the applicant submitted that the

aforementioned appeal is against the acquittal filed by the State and that there is no appeal pending so far as the order of conviction of respondent nos. 1 and 2 is concerned. Learned counsel for the applicant, therefore, submitted that there is no requirement to retain Muddemal property containing ornaments belonging to the applicant.

10. Learned APP submits that the aforementioned appeal is for challenging the acquittal of respondent nos. 1 and 2 for the offence punishable under section 120-B read with 449, 302, 394 and 397 of the Indian Penal Code. Learned APP does not dispute that the order convicting respondent nos. 1 and 2 for the offence punishable under section 380 of the Indian Penal Code has attained finality.

11. We have perused the papers. We have considered the submissions made on behalf of the applicant and the learned APP. The learned APP does not dispute that the muddemal property at Art. 11(collectively) to Art.58(collectively) and Art.66 contains gold and other ornaments recovered from respondent no.1. Except for the applicant, no other party has raised any claim with respect to said Muddemal property. A

perusal of the Judgment and Order impugned in the aforementioned appeal indicates that there is already a direction to return the aforesaid Muddemal property to the applicant after the appeal period is over. A perusal of the dates on record clearly shows that the appeal period is over long back. In view of the aforesaid, we do not find any reason for retaining Muddemal property containing the gold and other ornaments recovered from respondent no. 1. Hence, considering the aforementioned facts and circumstances, we allow the application in terms of prayer clause (a), which reads as under:

“(a) That the gold and other ornaments being Art. 11(collectively) to Art.58(collectively) and Art.66, be returned to the Applicant.”

12. All parties to act on authenticated copy of this order.

GAURI GODSE, J.

REVATI MOHITE DERE, J.