

**CRM-M-45303-2022 and
CRM-M-45370-2022**

2023:PHHC:153821

117 (2 cases)

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**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

1. CRM-M-45303-2022

Rajesh Kumar Mittu
... Petitioner

Versus

State of Punjab and another
... Respondents

2. CRM-M-45370-2022

Rajesh Kumar Mittu
... Petitioner

Versus

State of Punjab and another
... Respondents

Date of Decision:-29.11.2023

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr.Aditya Dassaur, Advocate
for the petitioner in both the cases.

Mr.Arun Luthra, DAG, Punjab
for respondent No.1 – State in both the cases.

Ms.Nisha Rana, Advocate
for respondent No.2 in **CRM-M-45303-2022.**

Mr.Umesh Sharma, Advocate
for respondent No.2 in **CRM-M-45370-2022.**

SUVIR SEHGAL, J. (ORAL)

1. This order shall dispose of both the above-mentioned petitions. Although both the petitions arise out of different FIRs but the allegations levelled against the petitioner and the relief(s) sought by him are similar.

2. For the sake of convenience, factual position is being taken from **CRM-M-45303-2022**.

3. By way of instant petition under Section 482 Cr.P.C., petitioner is seeking quashing of FIR No.50 dated 07.03.2022, Annexure P1, registered at Police Station Tanda, District Hoshiarpur for offences under Sections 457, 380 and 411 IPC and all subsequent proceedings arising therefrom.

4. Case of the prosecution is that FIR, Annexure P1, has been registered on the statement of Sukhwinder Kaur, a Government Teacher stating that she and her mother-in-law reside together. When they came home after an overnight stay with her sister-in-law, they found that their house had been burgled and gold and silver ornaments and cash of Rs.1.30 lakhs was missing. They lodged a complaint requesting that unidentified thieves be apprehended and the stolen articles be recovered.

5. Counsel for the petitioner urges that petitioner is not named in the FIR. He submits that the petitioner is working as a goldsmith and the allegation against him is that he had purchased the stolen ornaments from co-accused, Lovepreet Singh and Anil Kumar, who in their confessional statement had named him. By placing reliance upon the judgments in

**Surender Kumar Khanna Versus Intelligence Officer, Directorate of
Revenue Intelligence 2018 (3) RCR (Criminal) 954, Preet Kamal Versus**

State of Punjab, 2018 (4) RCR (Criminal) 938, Kamaljit Kanda Versus State of Punjab and another, 2018 (1) CRI.CC 557 and Judge Singh Versus State of Punjab, 2015 (5) RCR (Criminal) 656, counsel has urged that the confessional statement of a co-accused, which has been recorded in police custody cannot be read into evidence and is hit by Sections 25 and 27 of the Evidence Act, 1872. By referring to the final report submitted under Section 173 Cr.P.C., Annexure P4, he has argued that except for recovery of cash, there is no incriminating material against the petitioner and the offences, as alleged, are not made out.

6. Petition has been opposed by the counsel for the respondents. A reference has been made to the short reply filed by way of affidavit of Deputy Superintendent of Police, Sub Division, Tanda, District Hoshiarpur on behalf of official respondent to submit that the petitioner was well aware that he is dealing with stolen property.

7. I have heard counsel for the parties and considered their submission.

8. The evidentiary value of the statements of the co-accused and the material in the possession of the prosecution cannot be examined by this Court in exercise of its discretionary power under Section 482 of the Code of Criminal Procedure to scuttle the trial. Suffice it to notice that the petitioner had purchased gold ornaments from the co-accused at prices, which were much lower than the prevailing prices of the gold, which is an indicator of the fact that the petitioner was aware that the articles were stolen. The recovery of the alleged stolen articles from the petitioner is not necessary to attract the offence, rather it is the dishonest intention of the petitioner while dealing with stolen property, which attracts the offence under Section 411 IPC. The judgments relied upon by the counsel for the petitioner, therefore do not advance his case. Still further, it may be noticed that besides the present two FIRs, petitioner is involved in yet another criminal case

bearing FIR No.57 dated 22.03.2022 lodged for offences under Sections 380, 457, 411 IPC and Section 22 of NDPS Act at Police Station Tanda, District Hoshiarpur, which he has failed to disclose in the pleadings.

9. This Court is, therefore of the view that the prayer made in the petitions cannot be accepted.

10. Finding no merit in both the petitions, they are hereby dismissed.

11. As an abundant caution, it is clarified that any observation made hereinabove shall not be construed to be an expression of opinion on the merits of the case and the trial Court shall proceed with and conclude the trial uninfluenced by any observation made hereinabove.

(SUVIR SEHGAL)
JUDGE

29.11.2023
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Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No