

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

**CRIMINAL WRIT PETITION NO. 1438 OF 2023**

Khyati Chatwani Chordiya And Anr. ...Petitioners  
Versus  
The State Of Maharashtra And Anr. ...Respondents

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Ms. Ilsa Shaikh a/w Adv. S.R. Phanse, Advocate for the Petitioners.

Ms. Sangita E. Phad, APP for the Respondent – State.

Mr. Rizwan Marchant a/w Adv. F.F. Shaikh, Advocate for Respondent No.2.

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**CORAM : PRAKASH D. NAIK, &  
N. R. BORKAR, JJ.**

**DATE : 10<sup>th</sup> APRIL, 2024.**

**P.C.:**

1. The prayers of the Petitioners are that the First Information Report (for short 'FIR') bearing C.R. No.127 of 2023 dated 6<sup>th</sup> February, 2023 registered with Khar Police Station for offence punishable under Sections 406, 420, 465, 467, 471 and 120-B of Indian Penal Code (for short 'IPC') be quashed on the ground that it is a second FIR in respect to the same cause of action. It is also urged that in the alternative the aforesaid investigation in the FIR be clubbed with the previous FIR registered with same Police Station vide C.R. No.39 of 2023.

2. The FIR dated dated 14<sup>th</sup> January, 2023 was registered with Khar Police Station vide C.R. No.39 of 2023 for offence under Sections 408, 420, 465, 467, 468, 471 r/w 34 of IPC. It was registered at the instance of Respondent No.2 against Dhananjay Haresh Sangani, Ruchi Mukesh Chatwani, Mukesh Damjibhaji Chatwani and Kunal Chordiya.

3. The grievance of the complainant in C.R. No.39 of 2023 is that he is the partner of Anand Estate LLP having its office at COSMOS Commercial Center Crystal Premises Khar (W) Mumbai. The company is involved in retail sale of gold. Dhananjay Sangani is working as Sales Manager and accountant in the said company since 21<sup>st</sup> November, 2019. He had created his image as hard worker and sincere employee. The company had trusted upon him. He was entrusted with important work. The company had business relations with M/s. Zar Jewellers Pvt. Ltd. since last four years. The company provided raw gold to M/s. Zar Jewellers Pvt. Ltd. for manufacturing gold ornaments. Dhanajay Sangani took disadvantage of the situation. The weight of the ornaments prepared by M/s. Zar Jewellers Pvt. Ltd. was not done as the complainant company had trusted upon the said company.

Dhananjay Sangani was entrusted with work of accepting gold ornaments prepared by the company on providing raw gold to them. He was entrusted with the work preparing bill/invoices of providing gold of M/s. Zar Jewellers Pvt. Ltd. and receiving ornaments from them. Initially he carried out the work honestly and created his image as trusted person. However, during Covid-19 Mr. Sangani working from his home and carried out the work of accepting gold to company and receiving ornaments from them. In May-2022 the complainant realised from the books on account that there was misappropriation of gold at large scale. There was deliberate attempt on the part of employees to cause loss to complainant/company. On verification of bill of invoices infirmities were noted and it was realised that financial loss was caused to the company. It was also notice that financial irregularities were found with M/s. Om Shilpi Jewellers and James Pvt. Ltd. Dhananjay Sangani and Sales Manager Ketan Rach had taken gold weighing 38.93 gms for providing it to M/s. Zar Jewellers Pvt. Ltd.. Dhananjay Sangani accepted the gold in his custody from M/s. Om Shilpi Jewellers. It was thereafter, gold weighing 14.98 gms was handed over to M/s. Zar Jewellers Pvt. Ltd. There was misappropriation of 23.95 gms of gold. False entries were made in the books. The Accused made signature of Ketan Rach. The

Accused also entered into other irregular transactions causing loss to the complainant/company. The Accused misappropriated the gold ornaments of complainant/company.

4. The Accused Dhananjay Sangani, Ruchi Dhananjay Sangani @Ruchi Mukesh Chatwani, Mukesh Damjibhai Chatwani preferred an application for anticipatory bail before the Sessions Court. Kunal Vijay Chordiya also preferred similar application. In the application preferred by the Applicant Nos.1 to 3 in the said FIR reliance was placed on purchase confirmation copy of M/s. L.V. James. The said receipt was in the name of Ruchi Mukesh Chatwani indicating that the gold weighing 418.552 gms worth Rs.18,50,000/- was sold to M/s. L.V. James on 22<sup>nd</sup> April, 2021. The application preferred by Smt. Beena Haresh Sangani referred to the fact that she has sold gold worth Rs.21,39,436/- on 22<sup>nd</sup> April, 2021 to M/s. Parasmal Premraj Jewellers at Yatvatmal. Smt. Kyati Chatwani had signed as a witness. The Accused No.2 Ruchi Mukesh Chatwani had purportedly sold gold ornaments of Rs.5,20,676/- on 22<sup>nd</sup> April, 2021 to M/s. Parasmal Premraj Jewellers at Yatvatmal and Smt. Khyati Chatwani had signed as witness. Scrutiny of document indicated that On 22<sup>nd</sup> April, 2021 Ruchi Chtwani had sold ornaments at two different places i.e. Mumbai and Yavatmal

and Smt. Khyati Chatwani was a witness to the transaction. M/s. Parasmal Premraj Jewellers is the Accused in C.R. No.39 of 2023 and Smt. Kyati Chatwani is the wife and Ruchi Sangani is the sister. In the light of aforesaid factual aspect, the Respondent No.2 lodge the FIR dated 6<sup>th</sup> February, 2023 with Khar Police Staion vide C.R. No.127 of 2023 by mentioning the aforesaid facts.

5. Learned Advocate for the Petitioners submitted that there was no necessity of registering the second FIR vide C.R. No.127 of 2023. The second FIR is outcome of transaction reflected in C.R. No.39 of 2023. The investigation was in progress. There was no necessity of registering separate FIR. Multiple complaints by the same party in respect of the same incident would cause prejudice to the Accused who will be subjected to separate investigation and action of the Police. From the tenor of the FIR dated 6<sup>th</sup> February, 2023, it is apparent that it relates to the same cause of action. While the investigation was in progress in C.R. No.39 of 2023, it was not necessary to register separate FIR. The transaction could be part of C.R. No. 39 of 2023 which was under investigation. The second FIR is bad in law. It is required to be quashed or the investigation is required to be clubbed together.

6. Learned APP submitted that both the FIR relates to

different transactions and different cause of action. The place of transaction, the cause of action, the Accused involved in the said crime defers from the first FIR. At the stage of investigation it is not possible to say that the C.R. No.127 of 2023 relates to same transaction.

7. Learned Advocate for Respondent No.2 submitted that the investigation is in progress. At this stage it cannot be said that the FIR vide C.R. No.127 of 2023 is registered in relation to same cause of action. At the most the Accused can urged for clubbing both the cases together after the filing of charge-sheet. Reliance is placed on the decisions in the case of *Amitbhai Anilchandra Shah V/s. Central Bureau of Investigation And Another*<sup>1</sup>; *Vijay Kumar Ghai And Others V/s. State of West Bengal And Others*<sup>2</sup> and *T.T. Antony V/s. State of Kerala*<sup>3</sup>

8. The FIR dated 14<sup>th</sup> January, 2023 was registered against Dhananjay Sangani, Ruchi Chatwani, Mukesh Chatwani and Kunal Chordia. The FIR dated 6<sup>th</sup> February, 2023 was registered against Dhananjay Harish Sangani, Ruchi Sangani, Mukesh Chatwani, Beena Sangani, Khyati Chatwani, Sarveen Bhav and Kunal

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1 (2013) 6 SCC 348

2 (2022) 7 SCC 124

3 2001 (6) SCC 181

Chordia.

9. The second FIR relates to the use of fabricated documents by the Accused indicating that the ornaments were sold to the jewellers at Yavatmal.

10. The FIR registered vide C.R. No.39 of 2023 relates to misappropriation by Dhananjay Sangani to the tune of Rs.2,20,50,000/-. During the investigation, documents were collected indicating that the Accused Dhanajay Sangani was employed with complainant company. Investigation is also conducted which shows that the Accused No.1 was accepting gold ornaments from the various companies and instead of depositing the gold ornaments. He prepared false receipts indicating receipt of gold ornaments. Whereas C.R. No.127 of 2023 relates to the conspiracy by the Accused to show that they have sold the ornaments at two places viz. Mumbai and Yavatmal on 22<sup>nd</sup> April, 2021 and preparation of false and fabricated bills and purchase of house from the misappropriated amount. Although the Accused had not sold the gold ornaments, they prepared the false receipts to show that the ornaments were sold. They had utilized the said documents in their application for anticipatory bail. The Accused had represented that the house was purchased from the gold

ornaments sold by them. Thus, the documents were fabricated to show source of income. There is involvement of additional Accused in C.R. No.127 of 2023. The fabricated documents are different. Investigation is in progress. At this stage, the FIR cannot be quashed nor clubbed together.

11. The law laid down in the decisions referred to hereinabove is well settled. In the light of the facts narrated herein above, it is difficult to say that the Police are investigating the same crime vide two different FIRs. No case is made out to quash the FIR or club the investigation.

**ORDER**

. Criminal Writ Petition No.1438 of 2023 is rejected and stands disposed off.

**(N. R. BORKAR, J.)**

**(PRAKASH D. NAIK, J.)**