

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1080 OF 2021

Chaggansingh Udaysing Parmar, Age 33 years,
Shop at M/s.Dhanlaxmi Jewelers,
Bldg.No.7-A, GaneshDarshan Natwar Parekh
Compound, Shivaji Nagar, Gowandi,
Mumbai-400043.

Applicant

versus

The State of Maharashtra

Respondent

Mr.Manish N.Jain with RituG.Gehlot, Nidhi g.Kherodiya and Prasad
D. Mundhe i/by S.M.Jain Associates for Applicant.

Mr.A.S.Shalgaonkar, APP, for State.

Mr.Vikram Chavan, I.O., Parksite Police Station, present.

PSI Shital Kanadkhedkar, Parksite Police Station, present.

CORAM : PRAKASH D. NAIK AND
N.R.BORKAR, JJ.

DATE : 4th March 2024

PC :

1. The Applicant challenges the proceedings in C.C No.885/PW/
2021 arising out of FIR dated 7th October 2020 registered with
Parksite Police Station, Mumbai vide C.R No.539of 2020 for the
offences u/s.380, 454, 457 of Indian Penal Code.

2. The case of the prosecution is that the accused entered into the
house of complainant and committed robbery and took away gold
ornaments worth Rs.9,37,500/-.

3. Pursuant to registration of FIR investigation proceeded.
Accused Aslam Israel Shaikh @ Qureshi was arrested on 13th March
2021 and accused no.2 Chaggansingh Parmar was arrested on 13th

March 2021. They were remanded to custody. Accused Chaggansingh Parmar was granted bail by the court of learned Additional Chief Metropolitan Magistrate vide order dated 23rd March 2021.

4. Learned advocate for Applicant submitted that Applicant is not involved in the robbery. He has been implicated as a receiver of the stolen property. There is no evidence to establish that ornaments stolen by accused were stolen or handed over to the Applicant. Applicant was arrested and subsequently granted bail.

5. Learned APP submitted that Applicant was impleaded as accused on the basis of statement of co-accused. Applicant was received of stolen property.

6. Undisputedly Applicant was allegedly the receiver of stolen property. However, there is no cogent evidence to establish that Applicant has received the stolen property. The prosecution is relying upon the statement of co-accused Aslam Isreal Shaikh @ Qureshi. Although said accused had led police to the shop owned by Applicant, there is no cogent evidence in incriminating nature to establish that Applicant is receiver of the stolen property. In the absence of recovery, the prosecution is merely relying upon statement of co-accused which has no evidentiary value. Hence there is no evidence to prosecute the Applicant us.311 of Cr.P.C. The proceedings are required to be quashed.

ORDER

- (i) Criminal Application No.1080 of 2021 is allowed and disposed off;
- (ii) The proceedings in C.C No.885/PW/2021 pending before the Court of learned Metropolitan Magistrate, 31st Court, Vikroli,

Mumbai, arising out of FIR dated 7th October 2020 registered with Parksite Police station vide C.R No.539 of 2020 is quashed and set aside.

(N.R.BORKAR, J.)

(PRAKASH D. NAIK, J.)

MST