

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

CRIMINAL WRIT PETITION NO. 729 OF 2024

Shobha Bhagwan Chakor ...Petitioner

Versus

State Of Maharashtra ...Respondent

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Mr. Narayan Rokade i/by Mr. Dhananjay Bhosale, Advocate for the
Petitioner.

Ms. K. T. Hiwrale, APP for the Respondent – State.

Mr. Dinesh Patil, Colaba Police Station, Mumbai.

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

DATE : 10th APRIL, 2024.

P.C.:

1. The Petitioner is seeking directions to the Respondent to register the First Information Report (for short 'FIR') in respect to her complaint dated 8th September, 2023.

2. The written complaint was submitted to Senior Inspector of Police, Colaba Police Station on 8th September, 2023 stating that the Petitioner's husband had passed away on 5th November, 2022.

The Accused mentioned in the complaint are the relatives of the complainant. The residence occupied by the complainant is in the name of mother-in-law. Since, the Accused were relatives of the

complainant, they were frequently visiting the residential premises occupied by the complainant. Suit was filed in the Civil Court at Niphad after the death of Petitioner's husband. She was pursuing the said proceedings as legal heir. The Petitioner/complainant had attended the proceedings in the Civil Court at Niphad and she returned home on 4th September, 2023. She noticed that the gold ornaments, cash and important documents kept in the cupboard were missing. The door of the cupboard was open. The complainant could realized that there was theft of her belongings. The Accused were aware about the visit of the complainant at Niphad for attending the Court proceedings. The Accused were aware about the place where the articles kept by the complainant. The cash of Rs.50 lakhs and 91 Tolas gold ornaments were missing. The written complaint was submitted to the Police on 8th September, 2023.

3. Learned Advocate for the Petitioner submitted that pursuant to the written complaint submitted by the Petitioner, her statement was recorded by the Police on 12th September, 2023. However, the FIR was not registered. The complaint makes out the cognizable offence and it was the duty of Police to registered FIR. The investigation is required to be conducted by Police for which

the FIR is required to be registered. The ornaments and cash are required to be recovered. The complaint makes out cognizable offences and hence the investigating officer ought to have taken cognizance of the complainant and conduct an investigation.

4. Learned APP submitted that the suspected Accused are the close relatives of the complainant. The complainant noticed that her belongings were missing on 4th September, 2023 but submitted a written complaint on 8th September, 2023. Preliminary inquiry was conducted by Police. The statement of the complainant was recorded. Statement of other persons were recorded. The Police could not find *prima facie* evidence to register the FIR. The complainant did not produce any document relating to the ornaments which were purportedly stolen from the house. The complainant also could not satisfy that she was in possession of the huge cash which was allegedly missing from the cupboard.

5. The Accused are relatives of the husband of complainant. The complainant is occupying the premises which stands in the name of her mother-in-law. The inquiry conducted by the Police does not reveal any incriminating evidence against the suspected persons and the Police had not registered the FIR. The complainant had not produced any document about the gold ornaments which

were purportedly stolen from her house. The complainant had stated that one of the person accompanying her mother-in-law and she had left the house for attending the Court proceedings and after returning the home, she could noticed that the articles were missing.

6. Considering the aforesaid circumstances, it is not possible to issue a *writ of mandamus* directing the Police to register the FIR.

ORDER

- i. Criminal Writ Petition No.729 of 2024 is dismissed;
- ii. The Petitioner is at liberty to resort to the remedy of filing private complaint.
- iii. Petition stands disposed off.

(N. R. BORKAR, J.)

(PRAKASH D. NAIK, J.)