

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

**WRIT PETITION NO. 3897 OF 2023**

Swati Prakash Javkar

..Petitioner

v/s.

The State of Maharashtra .

..Respondent

Mr. Bhavesh Thakur for the Petitioner.

Mr. Junaid Thange i/b. Adv. Pratik Karande a/w. Aditya Talpade for the Original Complainant.

Ms. Rutuja Ambekar, APP for the State.

Mr. Bhavesh Thakur for the Petitioner.

**CORAM : ANUJA PRABHUDESSAI, &  
N. R. BORKAR, JJ.**

**DATED : 18<sup>th</sup> JANUARY, 2024.**

**P.C.**

1. This petition under Article 226 of the Constitution of India is to quash FIR No. 0726 of 2023 registered with D.N.Nagar Police Station, Mumbai, for offences under Sections 170, 406, 420 r/w. 34 of the Indian Penal Code.

2. Learned APP had made a statement that the investigation was still at the initial stage. Hence, an opportunity was given to the applicant to withdraw the petition with liberty to file a fresh petition at a later stage. Learned Counsel for the petitioner has

PRASANNA  
PRADEEP  
SALGAONKAR

Digitally  
signed by  
PRASANNA  
PRADEEP  
SALGAONKAR  
Date:  
2024.01.25  
10:46:12  
+0530

chosen to proceed with the matter.

3. Heard learned Counsel for the respective parties. We have perused the records and considered the submissions advanced by the learned Counsel for the respective parties.

4. The aforesaid crime was registered pursuant to the FIR lodged by Swati Prakash Javkar. A perusal of the FIR reveals that the respondent no.2 is in corporate gifting business, and the petitioner herein was known to her since 2014. In the month of January 2023, the petitioner introduced respondent no.2 to the co-accused Shweta Badgujar, as a public prosecutor, practicing in the Sessions Court, Mumbai. Said Shweta Badgujar informed respondent no.2 that her brother Piyush Pradhan, is an Assistant Commissioner at Mumbai Airport, and one Custom Officer by name Madhavi was known to her. She assured to procure the gold auctioned by the customs department at a cheaper rate. Respondent no.2 claims that the petitioner had induced her in purchasing the gold from Shweta Badgujar assuring that she had herself purchased gold from

Shweta Badgujar and made considerable profit. Respondent no.2 was given gold which was sold in the market at a higher rate. Subsequently, at the request of Shweta Badgujar she convinced her relatives and friends to invest the money by purchasing gold from Shweta Badgujar at cheaper rate. It is stated that said Shweta Badgujar did not return the money and cheated the complainant and others to the tune of Rs.10 Crores.

5. Learned Counsel for the petitioner claims that there is no prima facie material to show that the petitioner had induced the complainant in purchasing the gold. He submits that the petitioner herself is a victim of crime committed by Shweta Badgujar. He submits that the petitioner did not have dishonest intention to cheat any person and hence essential ingredients of Section 420 are not made out. He further states that respondent no.2 had herself introduced the co-accused Shweta Badgujar to the complainant in Crime No.289 of 2023. He also submits that Whatsapp chats between the petitioner and Respondent No.2 indicate that they were in talking terms even after lodging of the complaint. He submits that the contents of the FIR are

false and vexatious and do not disclose any offence against the petitioner. He has relied upon the decision of the Apex Court in ***Prof. R.K.Vijayasarathy & Anr. Vs. Sudha Seetharam & Anr. 2019 (1) Crimes 118 (SC).***

6. Learned APP states that the petitioner was a close friend of the co-accused Shweta Badgujar, and she was aware that Shweta Badgujar is not a public prosecutor. He submits that the petitioner had introduced the respondent no.2 to the co-accused Shweta Badgujar and induced her to purchase gold from her. He submits that the co-accused has used similar modus operandi to cheat several other persons and that eight other crimes are registered against her for similar offence. It is submitted that the role of the petitioner is being investigated.

7. It may be mentioned that though the petitioner claims to be a victim, she has not lodged any complaint against said Shweta Badgujar. The FIR clearly records that the Petitioner had introduced the Respondent No.2 to the co-accused. The Petitioner had prima facie prima facie induced Respondent

No.2 in purchasing the gold from the co-accused Shweta Badgujar by representing to her that she had also purchased gold from her and made considerable profit.

8. In ***Prof R K Vijayasathy*** (supra), the Apex Court has reiterated that where the ingredients required to constitute a criminal offence are not made out from the bare reading of the complaint, the continuation of the criminal proceedings will constitute an abuse of the process of the Court and such criminal proceedings can be quashed under section 482 of Cr.P.C. There is no dispute regarding this settled position. It is equally true that the extra ordinary or inherent powers of the Court cannot be exercised to scuttle legitimate investigation. In the instant case, the investigation is at nascent stage. The role of the Petitioner is still being investigated. Hence, the court cannot record a specific finding at this stage that the petitioner had no dishonest intention; or that she had not induced the complainant in buying the gold; or that the allegations made against her are frivolous or vexatious; or that the FIR was instituted with ulterior motive for wrecking vengeance.

9. Under the circumstances, we are not inclined to exercise powers under Article 226 of the Constitution of India to quash the FIR at this stage. The petition is dismissed.

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

**(ANUJA PRABHUDESSAI, J.)**