



IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1257 OF 2024

Piyush S/o. Satish Bedre,
Age : 33 Years, Occu. : Business,
R/o. Ashti, Tq. Ashti,
Dist. Beed.

.... Applicant

VERSUS

1. The State of Maharashtra
Through Police Inspector,
Police Station Yermala,
Tq. Kalamb, Dist. Osmanbad.

2. Avinash S/o. Anantrao Jadhavar,
Age : 45 Years, Occu. : Agri.,
R/o. Ratnapur, Tq. Kalamb,
Dist. Osmanabad.

.... Respondents

....
Advocate for Applicant : Mr. A.S. Kakade
APP for Respondent No.1-State : Mr. V.K. Kotecha
Advocate for Respondent No.2 : Mr. R.K. Jadhavar
....

CORAM : SMT. VIBHA KANKANWADI &
SANJAY A. DESHMUKH, JJ.

Dated : 25th June 2025

ORDER [PER SANJAY A. DESHMUKH, J.] :-

1. Heard learned Advocate for both sides as well as learned
APP for the State.

2. This is an application for quashing the First Information Report (for short “the F.I.R.”) and charge-sheet in R.C.C. No.53 of 2023, under Section 482 of the Code of Criminal Procedure, 1973 (for short “the Cr.P.C.”), pending before the learned Judicial Magistrate First Class, Kalamb, Dist. Osmanabad, arising out of Crime bearing No.0296 of 2022, registered with Yermala Police Station, Dist. Osmanabad, dated 04.11.2022, for the offences punishable under Sections 394, 411 read with Section 34 of the Indian Penal Code, 1860 (for short “the I.P.C.”).

3. Learned Advocate for the applicants pointed out the report dated 04.11.2022, in which respondent No.2/informant averred that the incident took place on 04.11.2022 at around 03.20 Hrs. to 03.35 Hrs. He came from Beed after attending the funeral of a relative at around 00.30 Hrs. His father slept in the hall and mother slept in the bedroom. He also slept in his bedroom. At around 03.20 Hrs., three persons started to assault him. They assaulted on his arm and thighs of both legs. He saw total four persons in the bedroom. One of them was 35 to 40 years old wearing a vest and armed with a weapon. Other three were lean wearing regular clothes and one of them wore a jeans. They were having two wet Neem sticks and one wooden stick. They asked him where is the articles/money, etc. and

told to shut his mouth. He got frightened and pointed to trouser containing the money. They took out Rs.15,000/- from the pocket of trouser. They again asked him about the other articles and threatened to kill. They raised wooden sticks on him. One of them took out a weapon *Sattur*, concealed in his waist, and showed him. That time, he told that the gold ornaments are in the almirah. The person wearing a vest opened the door of iron almirah with the help of a weapon *Katavani*. They took out the following gold ornaments, money, etc. and put it into his vest.

- i. Cash of Rs.2,35,000/-.
- ii. Two gold rings, worth Rs.99,700/-.
- iii. One gold Maharaja ring of 7 grams,worth Rs.25,000/-.
- iv. Gold necklace with pendant, worth Rs.45,000/-.
- v. Gold locket of children with three gold almonds, worth Rs.30,000/-.
- vi. Five gold rings of children weighing 0.5 grams and two gold rings of 1 grams, worth Rs.16,000/-.
- vii. One gold ring of 3 grams, worth Rs.10,000/-.
- viii. 30 gold beads and two pendants of 3 grams, worth Rs.10,000/-.
- ix. 20 gold beads of 1.5 grams, worth Rs.8,000/-.

4. The informant further averred in his report that, thereafter, they broke the door by kicking it where his mother was

sleeping. One of them assaulted on her forearm. He resisted them and said not to kill his mother and he himself can kill for his mother. One of them agreed to not kill his mother. Then, they forcibly pulled off the gold Miniganthan of Rs.70,000/- from her neck, gold earrings of Rs.10,000/- from her ears and one ladies gold ring of Rs.10,000/-.

5. The informant further averred in his report that, at that time, one of his neighbour viz. Balaji Jadhavar made phone call to him. Upon hearing the phone ring, all the four robbers jumped over the compound wall and ran away towards the agricultural land. Thereafter, Balaji Jadhavar and Prashant Bangar came to their house and untied the rope tied by the accused and opened the door. Thereafter, he informed the police about the incident and lodged the report on the same day.

6. Learned Advocate for the applicant submitted that the applicant is falsely implicated in the present crime. He is not named in the F.I.R. He is reputed person in the society. He has no criminal antecedents. This Court had granted interim protection to the applicant. As per conditions in the order, he has attended the police station and co-operated in the investigation. He has handed over his daily registers to the Investigating Officer. The evidence on record

does not show the stolen articles was sold by the robbers to the applicant. Nothing has been recovered from the present applicant. The essential ingredients of offences punishable under Sections 394, 411 of the I.P.C. are not establishing against the applicant. If he is compelled to face the trial, it would certainly be an abuse of process of Court. It is lastly prayed to allow the application.

7. Learned APP for the State and learned Advocate for the respondent No.2/informant strongly opposed the application and submitted that the present applicant has received the stolen article from the robbers, who had committed robbery at the house of the informant, and paid money to them. There was a dishonest intention on the part of the present applicant. Therefore, no case is made out to exercise the powers under Section 482 of Cr.P.C., as the investigation is over, charge-sheet is filed and let the trial be completed. It is lastly prayed to reject the application.

8. We have perused the charge-sheet, particularly the report and panchnama, etc. The informant contended that a robbery has taken place at his house and gold ornaments along with other valuable articles were stolen from his house. During the investigation, some of the accused persons were arrested and the main accused and

his brother have allegedly disclosed that they have sold some stolen gold ornaments to the present applicant. The allegation of the prosecution is that after granting interim relief to the applicant, he has not co-operated in the investigation. He has given evasive answers and not handed over the stolen gold articles to the Investigating Officer. Mere doubt is not sufficient material against the applicant.

9. On perusal of spot panchnama, it shows that co-accused Amol Kale stated that he and other co-accused distributed the stolen articles among themselves. He nowhere stated that he sold the stolen articles to the present applicant. However, on perusal of memorandum panchnama of accused Amol Kale, it reveals that at the instance of him, he and police officers went to the shop of S.M. Bedre, where he sold the stolen gold ornaments, and he showed the said shop and told that he has sold the stolen gold ornaments to the owner of the said shop viz. Lakhan Bhaiya Bedre. At that time, the said shop was closed and upon inquiry said Lakhan Bedre had went to Ahmednagar.

10. As discussed above, the identity and involvement of the present applicant has nowhere been disclosed from the charge-sheet that he has received the stolen gold ornaments from other co-accused.

So also, nothing has been recovered from the present applicant by the Investigating Officer. The essential ingredients of Section 394, 411 of the I.P.C. are not establishing against the present applicant. Therefore, this is a fit case where we should exercise our powers under Section 482 of the Cr.P.C. in the interest of justice to prevent the abuse of process of court. The application deserves to be allowed. Hence, the following order.

ORDER

- I) The application stands allowed.
- II) The First Information Report and charge-sheet in R.C.C. No.53 of 2023, pending before the learned Judicial Magistrate First Class, Kalamb, Dist. Osmanabad, arising out of Crime bearing No.0296 of 2022, registered with Yermala Police Station, Dist. Osmanabad, dated 04.11.2022, for the offences punishable under Sections 394, 411 read with Section 34 of the Indian Penal Code, 1860 stands quashed against the present applicant.

[SANJAY A. DESHMUKH]
JUDGE

[SMT. VIBHA KANKANWADI]
JUDGE