

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

CRIMINAL WRIT PETITION NO. 3192 OF 2011

Mukeshkumar Prahalad Sunar (Soni) :- Petitioner
versus
State of Maharashtra & Anr. :- Respondents

Mr. Manish Jain, for the Petitioner.
Mr. A. S. Gadkari, APP, for Respondent No. 1.
Mr. U. N. Tripathi, *Amicus Curiae*. (for Respondent No. 2)

**CORAM :- A.M.KHANWILKAR &
R.Y.GANOO, JJ.**

DATED :- SEPTEMBER 06, 2012

P.C. :-

Rule. Counsel for the concerned Respondents waive service for the respective Respondents. By consent, Rule made returnable forthwith and heard finally.

2) The Petition is for quashing of FIR, registered against the Petitioner in C. R. No. 288/2011 with Ghatkopar Police Station, for offence punishable under Section 406 read with 34 of the Indian Penal Code. Although the FIR was initially registered

against two persons, the name of Bharat Punwasi Sonar was deleted from the FIR. In other words, the offence is simpliciter under Section 406 of the Indian Penal Code.

3) The incident in question is on account of some transaction between the complainant and the Petitioner. The complainant had handed over gold ornaments, in lieu thereof, the Petitioner paid her sum of Rs. 12,000/- with clear understanding that she would return the said amount along with interest and on returning the entire amount, she would get back the gold ornaments.

4) The case of the Respondent complainant is that when she went to return the amount, along with interest, on 24th July, 2011 and again on 27th July, 2011, the Petitioner informed her that the ornaments were misplaced by him. The complainant did not handover the amount, as the Petitioner was not in a position to return the ornaments. In this backdrop, the complainant rushed to the police station and filed the present complaint.

5) During the pendency of this Petition, the Petitioner and the complainant have arrived at mutual settlement, in terms thereof, the complainant has already returned amount of Rs.12,000 to the Petitioner, which has been accepted by the Petitioner towards full and final payment by the Respondent No. 2 complainant and in lieu thereof, the Petitioner has handed over 10 gm's. 99.50% pure gold coin to the Respondent No. 2 complainant. The Respondent No. 2 complainant has verified the authenticity and genuineness of the said coin and is satisfied that the same is pure 10 gms. Gold. In other words, the Respondent No. 2 complainant is also satisfied with the settlement terms.

6) The Respondent No. 2 is present in Court. We had requested Mr. U. N. Tripathi to appear as Amicus Curiae to espouse the cause of the Respondent No. 2, who graciously accepted the request and has interacted with Respondent No. 2 and assisted the Court ably. The Court appreciates the efforts put in by Mr. Tripathi.

7) Considering the above, the FIR in question, in our opinion, in the interest of justice, deserves to be quashed, as the parties have amicably settled all their contentious issues. Learned APP, on instructions, states that there is no criminal antecedent of the Petitioner in respect of any offence whatsoever. We have already adverted to the fact that although the FIR was originally registered against two persons, the name of Bharat Punwasi Sonar has been subsequently deleted. In the circumstances, the FIR is quashed.

8) Petition disposed of. Rule made absolute, on the above terms.

(R . Y . G A N O O , J .)

(A . M . K H A N W I L K A R , J .)