

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 31ST DAY OF JULY 2018

BEFORE

THE HON'BLE MR. JUSTICE JOHN MICHAEL CUNHA

CRIMINAL PETITION NO.4270 OF 2018

BETWEEN:

MR. TARUN L CHOWDHARY
S/O LABURAM
AGED ABOUT 33 YEARS
RESIDING AT NO.50,
HUCHCHAPPA ROAD,
MUDLUPALYA CIRCLE,
VIJAYANAGARA,
BANGALORE – 560072.

... PETITIONER

(BY SRI: H. SUNIL KUMAR, ADVOCATE)

AND:

1. STATE OF KARNATAKA BY
PEENYA POLICE STATION
REPRESENTED BY STATE PUBLIC PROSECUTOR
HIGH COURT OF KARNATAKA 560 001.

2. LINGARAJU.C.N.
S/O LINGAIAH.C.M
NO.153, KUMARA NILAYA,
4TH CROSS,
M.S.RAMAIAH LAYOUT,
BANGALORE 560 073.

... RESPONDENTS

(BY SMT: NAMITHA MAHESH B.G., HCGP FOR R1)

THIS CRL.P IS FILED U/S.482 CR.P.C PRAYING TO QUASH THE FIR AND CHARGE SHEET IN CRIME NO.434/2015, VIDE ANNEXURE-A AND ANNEXURE-C FILED BY THE RESPONDENT PEENYA POLICE STATION AGAINST THE PETITIONER PENDING BEFORE THE VII A.C.M.M., BANGALORE IN C.C.NO.15247/2016.

THIS CRL.P COMING ON FOR ADMISSION THIS DAY, THE COURT MADE THE FOLLOWING:-

O R D E R

This petition is filed under section 482 of Cr.P.C., seeking to quash the FIR and the charge-sheet lodged against the petitioner/accused No.4 in Crime No.434/2015 for the offence under section 411 of Indian Penal Code.

2. Learned counsel for the petitioner, at the outset, pointed out, that the charge-sheet material itself suggests that accused No.1 had pledged the gold ornaments with the petitioner in his jewellery shop. The receipt issued by the petitioner at Annexure-D clearly indicates that it was a genuine transaction. Even accused No.1 in her voluntary statement has disclosed that the gold in question was pledged with the petitioner. Petitioner has advanced a sum of Rs.2,00,000/- to the accused No.1. There is nothing on record to indicate that

the petitioner had any knowledge or intention to commit the offence within the meaning of section 411 of Indian Penal Code.

The above facts clearly rule out ingredients of section 411 of Indian Penal Code. Hence the prosecution of the petitioner is patently illegal.

3. On perusal of the charge sheet and the evidence collected by the Investigating Agency, I am in complete agreement with the submissions of the learned for the petitioner. Dishonest receipt or retention of stolen property and the knowledge or reason to believe at the time of receipt that the property was stolen are the essential concomitants of Section 411 of Indian Penal Code. Mere possession of the stolen property is not sufficient to constitute the offence. Section itself reads as under:-

411. *Dishonestly receiving stolen property:-*

Whoever dishonestly receives or retains any stolen property, knowing or having reason to believe the same to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Accordingly, Criminal Petition is **allowed**.

FIR and charge-sheet lodged against the petitioner/accused No.4 in Crime No.434/2015 of Peenya Police Station pending on the file of VII Additional Chief Metropolitan Magistrate, Bengaluru in C.C.No.15247/2016 are hereby quashed.

Sd/-
JUDGE

Bss/mn/-