

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1090 OF 2017

(Arising out of SLP (Criminal) No. 126 of 2017)

ASHOK KUMAR PAREKH

... Appellant

VERSUS

STATE OF MAHARASHTRA

... Respondent

O R D E R

Leave granted.

We have heard learned counsel for the parties finally at this stage.

The appellant is the complainant at whose instance Case No. 648 of 1992 was registered. In the said complaint, he had alleged that he was running a jewellery shop in the name and style of Vinayak Jewellers, situated at Shop No. 12-D, Vile Parle (East), Mumbai, and there was a robbery in his shop on 28.04.1991 by 5-6 persons at about 2 p.m. who had robbed him of certain gold ornaments and other valuable articles. We are not stating other facts which are not necessary for our purpose. It is sufficient to mention that the appellant had filed an application for return of the jewellery which was seized by the police during investigation after the aforesaid complaint was lodged by the appellant. The appellant was given some jewellery which could be identified, at the same time, it was found that some other

items of jewellery were converted into gold bars. For these reasons, the application of the appellant for return of the jewellery, which had undergone change, was rejected. The appeal of the appellant also stood dismissed by the High Court with the observations that the articles which have undergone change could not have been returned as these articles were converted into gold bars and the possibility of some other gold ornaments must have also been part of the golden bars cannot be ruled out.

Learned counsel for the appellant has taken us through the statement of one of the accused persons viz., accused No.4-Rajappa Shankarappa Gunjeti, who had specifically stated as to how, after getting his share in the robbery, he disposed of the property and the manner in which it was converted into gold bars.

We, therefore, are of the opinion that the Trial Court should have undertaken further exercise to ascertain as to whether the articles which have been converted into gold bars can be identified as that of the appellant. If that exercise is possible, it should be undertaken and, on that basis, if the claim of the appellant is established, he should be returned the said gold bars.

We, thus, set aside the order of the High Court, allow this appeal and direct the Trial Court to reconsider the

application of the appellant after undertaking the exercise
as aforesaid.

....., J.
[A.K. SIKRI]

....., J.
[ASHOK BHUSHAN]

New Delhi;
July 04, 2017.

ITEM NO.10

COURT NO.6

SECTION II-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl.) No. 126/2017

(Arising out of impugned final judgment and order dated 20-09-2016 in CRLA No. 714/1999 passed by the High Court of Judicature at Bombay)

ASHOK KUMAR PAREKH

Petitioner(s)

VERSUS

STATE OF MAHARASHTRA

Respondent(s)

(With appln(s) for exemption from filing O.T.)

Date : 04-07-2017 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.K. SIKRI
HON'BLE MR. JUSTICE ASHOK BHUSHAN

For Petitioner(s)

Mr. Sanjay Dubey, Adv.
Mr. Narender Singh, Adv.
Mr. Rameshwar Prasad Goyal, AOR

For Respondent(s)

Mr. Nishant Ramakantrao Katneshwarkar, AOR
Mr. Arpit Rai, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

(NIDHI AHUJA)
COURT MASTER

(MALA KUMARI SHARMA)
COURT MASTER

[Signed order is placed on the file.]