

**IN THE HIGH COURT OF MADHYA PRADESH**  
**BENCH AT INDORE**

**(SB: Hon'ble Mr. Justice Alok Verma)**

**MCRC No.8310/2015**

Shiv Kumar Judele S/o Radha Krishna Judele

Vs.

State of MP

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Shri Prateek Maheshwari, learned counsel for the applicant.  
Shri Romesh Dave, learned counsel for the respondent /State.

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**ORDER**

**(Passed on this 2<sup>nd</sup> day of November, 2015)**

This application under section 482 of Cr.P.C. is filed seeking quashment of the proceedings arising out of Silsila No.02/2015 under sections 41(1-A)/102 of Cr.P.C. and section 379 of IPC.

2. The brief facts giving rise to this application are that on 22.07.2015 at about 18:10, Police Station – GRP Lines, Indore, received a source information that a person, who was regularly indulging in smuggling of gold biscuits, was carrying 2 gold biscuits in his pocket and was going to Jabalpur to handover the gold biscuits to a trader there. Acting on this source information, suspected person was traced by the police and

when searched, 2 gold biscuits having purity of 99.05% weighing 2 kg were recovered from his possession.

3. According to counsel for the applicant, he is working for a business enterprise M/s JBR Bullion, which paid Rs.25 lacs as cost of one kilogram of gold biscuits and the person from whose possession gold biscuits were found, present applicant Shiv Kumar Judele, is an employee of the firm. He was sent to collect the biscuits from the firm at Indore. He collected the gold biscuits and while, he was going back, he forget to collect the bills and other papers thereof, therefore, when he was caught and searched by the police, he was not having any papers of the biscuits. However, it is asserted by the present applicant that he was working under the instructions and guidance of the firm for which he was working and, therefore, no offence under section 379 of IPC is made out.

4. Counsel for the respondent/State produced the case diary in the matter.

5. I have gone through the case diary.

6. During the investigation, statement of the person, who sold the biscuits to the firm at Jabalpur was recorded and he confirmed in his statement that the biscuits were sold by the

firm and it was not a stolen property. Similarly, statement of the person, who is running business at Jabalpur, was also recorded by the police. He also confirmed that the present applicant was authorised to collect the biscuits on behalf of the firm and he was carrying the biscuits to Jabalpur. Necessary cash memo and other documents confirmed transaction are also produced.

7. After going through the documents and the statements recorded by the police, it is apparent that the property seized from possession of the present applicant i.e. 2 kg of gold biscuits, is not stolen property and both the seller and the purchaser of the property verified that present applicant was authorised to collect and carry the property to Jabalpur. There are also valid papers of the transaction and accordingly, from the face of it, no crime under section 379 of IPC is made out. The seized gold biscuits may be returned back to the present applicant from whose possession the biscuits were seized.

8. In view of the aforesaid, this application is allowed. The proceedings in Silsila No.02/2015 under section 41(1-4)/102 of Cr.P.C. and under section 379 of IPC registered at Police State – GRP Thana, Indore, are quashed. Present applicant is

discharged from the charge under section 379 of IPC.

9. Before parting with the order, it is made clear that the Commercial Tax Department, Government of Madhya Pradesh, Income Tax Department and Central Excise Department are at liberty to continue their enquiry under various provisions of law and proceed against the buyer and seller of gold in accordance with law as the need be. This order shall only govern criminal liability of the present applicant under section 379 of IPC.

C.c. as per rules.

**(Alok Verma)**  
**Judge**

*Kratika/-*