

**IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR**

**BEFORE**

**HON'BLE SHRI JUSTICE VISHAL DHAGAT**

**WRIT PETITION No.22930 of 2022**

**Between:-**

**M/S MANAPPURAM FINANCE LTD  
INCORPORATED UNDER THE COMPANIES  
ACT THROUGH ITS AUTHORISED  
SIGNTAORY SHRI RAVINDRA KUMAR S/O  
SHRI BABURAM AGED ABOUT YEARS  
OCCU. REGIONAL AREA HEAD HAVING  
REGISTERED OFFICE AT MANAPPURAM  
HOUSE, A.O. VALAPAD, THRISSUR DISTRICT  
KERALA 680567 HAVING ITS BRANCH  
OFFICE AT NEW MARKET, M.P. NAGAR AND  
INDRAPURI AT BHOPAL (M.P.) R/O  
MANAPPURAM FINANCE LIMITED OFFICE  
AYOYDHYA NAGAR, NEAR BHPASS  
BHOPAL, DISTRICT BHOPAL (M.P.)  
(MADHYA PRADESH)**

**.....PETITIONER**

***(BY SHRI SANJAY RAM TAMRAKAR - ADVOCATE)***

**AND**

- 1. THE STATE OF M.P. THROUGH ITS  
PRINCIPAL SECRETARY HOME  
DEPARTMENT MANTRALAYA, VALLABH  
BHAWAN, BHOPAL (M.P.) (MADHYA  
PRADESH)**
- 2. SUPERINTENDENT OF POLICE BHOPAL  
DISTRICT BHOPAL (MADHYA PRADESH)**

3. STATION HOUSE OFFICER POLICE  
STATION ARERA HILLS, DISTRICT  
BHOPAL (MADHYA PRADESH)

...RESPONDENTS

*(SHRI AMAN PATEL – ADVOCATE FOR INTERVENER AND  
SHRU SUDEEP CHATTERJEE – GOVERNMENT ADVOCATE)*

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Reserved on : 01.03.2023  
Delivered on : 15.03.2023

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*This petition having been heard and reserved for orders,  
coming on for pronouncement this day, the Court pronounced the  
following:*

### **ORDER**

Petitioner has filed this writ petition under Article 226 of the Constitution of India making a prayer for quashing of impugned notice dated 29.09.2022 contained in Annexure-P/4.

2. Station House Officer, Police Station-Arera Hills, Bhopal has issued a notice to petitioner-company stating therein that one Deepak Sharma on 12.07.2022 had committed theft of gold jewellery belonging to Rajshri Jewelers. Said jewellery was having hallmark of RSJ. List of jewellery was given to petitioner-company. Notice was given to seize aforesaid jewellery by police as it is subject matter of Crime No.347/2022 registered at police station- Arera Hills, Bhopal.

3. Learned counsel appearing for petitioner submitted that accused has pledged gold jewellery and petitioner-company had given loan on the

pledged jewellery. Company had all requisite permission from Reserve Bank of India to act as non-banking finance company. All necessary legal formalities were completed in accordance with law before loan transaction. Petitioner-company had acted *bonafidely*. Since, there is no fault of petitioner company, therefore it may not be allowed to suffer wrongful loss. Company has completed KYC formalities and has taken PAN Card, Adhar Card from Deepak Sharma and obtained his declaration regarding ownership of gold. According to agreement between accused Deepak Sharma and company, petitioner-company has power and authority to sell the gold in auction in event of default and non-payment of loan disbursed. It is submitted that even in cases of dispute loan is to be repaid back by the borrower. It is further submitted that in identical cases, Apex Court has granted stay over notice issued under Section 102 of the Cr.P.C. vide order dated 12.03.2022. Similar interim orders have been passed in WP Nos.18633/2022, 13370/2022, 8515/2022. In these circumstances, impugned notice which has been issued by police station-Arera Hills, Bhopal be quashed.

4. Learned counsel appearing for respondents and Government Advocate appearing for State made a prayer for dismissal of writ petition. It is submitted by them that gold in question which is pledged in bank is subject matter of crime, therefore, petitioner company cannot retain the said articles on basis of agreement between company and accused. Petitioner may have authorization or permission from Reserve Bank of India to do business of non-banking finance company but same will not deprive prosecution from issuing notice to petitioner company for formal

seizure of articles of theft. No benefit can be given to company on basis of contract entered between petitioner and accused-Deepak Sharma. Notice issued by police station is in accordance with law and, therefore, writ petition may be dismissed.

5. Heard the counsel for the parties.

6. Section 102 (1) of the Code of Criminal Procedure is quoted as under:-

***"102. Power of police officer to seize certain property.***

*(1) Any police officer, may seize any property which may be alleged or suspected to have been stolen, or which may be found under circumstances which create suspicion of the commission of any offence."*

Section 102 gives power to Police Officer to seize any property which may be alleged or suspected to have been stolen or which may be found under circumstance which creates suspicion of commission of any offence.

7. In this case, gold which is pledged with petitioner company is stolen articles and had been pledged with the bank. Accused-Deepak Sharma had committed fraud with the bank by giving false declaration that he is owner of property in question. Said accused person has also cheated petitioner company by inducing them to believe that property in question belongs to him and on said belief company transferred the money to accused. Accused has not only committed theft of jewellery from Rajshri Jewelers but had also committed offence of forgery and

cheating with petitioner company. Petitioner company has remedy to take criminal as well as civil action against said accused person for penalizing him and to recover the money which has been given to him on loan.

8. Question before Court is whether petitioner company exercising its rights under agreement with accused can retain gold jewellery despite notice of Investigating Officer under Section 102 of the Cr.P.C.?

Section 24 of the Contract Act lays down as under:-

***"24. Agreements void, if considerations and objects unlawful in part.- If any part of a single consideration for one or more objects, or any one or any part of any one of several considerations for a single object, is unlawful, the agreement is void."***

9. No right is created in favour of petitioner company to retain the jewellery as said jewellery is subject matter of crime and agreement between petitioner company and accused which has been secured on basis of fraud and misrepresentation, is void under Section 24 of the Contract Act, therefore, petitioner in aid of said agreement cannot refuse to obey the notice given by concerned police station under Section 102 of the Cr.P.C. Further petitioner company has not diligently taken care for proper verification of gold jewellery. Documents of ownership of gold was not checked by petitioner company and only on basis of declaration, gold loan was given.

10. In view of aforesaid facts and circumstances of the case, no right accrues in favour of petitioner company on basis of a forged agreement

done by accused person with it to retain gold jewellery contrary to notice issued by police station under Section 102 of the Code of Criminal Procedure.

**11.** Writ petition is *dismissed*.

**(VISHAL DHAGAT)**  
**JUDGE**

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