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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3895/2015
IN
CRIMINAL APPEAL NO.99/2015

Kishor Purushottam Kulkarni,
age 52 yrs., occu.service as
Manager, Swastik Petrol Pump,
Maharashtra Industrial Development
Corporation, Latur.

...Applicant..

Versus

1] Parmeshwar Dagadu Hanvate,
age 23 yrs., occu.Auto Driver,
r/o Jevli Tq. & Dist.Latur.

2] The State of Maharashtra,
through Police Station,
Shivajinagar, Latur. Dist.Latur.

...Respondents...

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Shri N.P. Patil Jamalpurkar, Advocate for applicant.

Shri K.B. Autade, Advocate for respondent no.1.

Shri K.S. Patil, APP for respondent no.2 - State.

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CORAM: A.B. CHAUDHARI &
INDIRA K. JAIN, JJ.

DATE: 03.09.2015

ORDER :

1] Heard learned counsel for the parties.

2] Learned counsel for the applicant invited our
attention to the fifth sub-paragraph of operative order
of the impugned and judgment dated 5.1.2015 passed by the

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learned Sessions Additional Sessions Judge, Latur in Sessions Case No.105/2013, which is disposed of finally with conviction. The learned counsel submitted that the order made by the trial Judge to retain the currency notes till the final conclusion of the trial against absconding accused, is unsustainable.

3] To a query made by us to the learned counsel for the applicant as to whether the applicant had earlier applied, he has shown a certified copy of the application made for release of the property in his client's favour before the learned Chief Judicial Magistrate i.e. the committal Court, which had rejected the said application. That order obviously would be an interim order contemplated by Section 451 of the Code of Criminal Procedure. The learned counsel for the applicant does not dispute that his client did not apply to the Sessions Court in anticipation of the order for final disposal of the property or for delivery of property to his client. The trial Judge also did not notice the complainant on the proposed move for making the order of disposal of property of currency notes. Fact remains that the trial is over and now the trial Judge has become *functus*

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officio, but then according to us, disposal of property in question is a matter which requires application of mind to the facts, evidence and documents on record etc. as also adherence to the principles of natural justice. We, therefore, make following order.

4] Criminal Application No.3895/2015 is disposed of reserving liberty in favour of the applicant – Kishor Purushottam Kulkarni to apply for disposal of property in his favour in the Sessions Case No.105/2013 decided on 5.1.2015 before the trial Judge who shall then hear all the concerned parties and decide any such application. The application shall be made within a period of 15 days from today and the decision thereon shall be taken by the learned Sessions Judge within a month thereafter in accordance with law and without being influenced by the earlier order regarding disposal of the property. If any such application is not filed within 15 days, liberty granted shall stand automatically recalled.

(INDIRA K. JAIN, J.)

(A.B. CHAUDHARI, J.)