

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Sheet

Criminal Appeal No.922 of 2009

Asgar Ali, S/o. Mohammad Sakir, aged about 32 years, R/o.
Devrikhurd Chowk, Torwa, Police Station Torwa, Distt. Bilaspur
(CG)

----Appellant

Versus

State of Chhattisgarh, Through Police Station Torwa, Distt.
Bilaspur (CG)

---- Respondent

01.02.2016	None for the appellant. Smt. M. Asha, Panel Lawyer for the State. Perused IA No.01/2009, application for condonation of delay in filing the appeal under Section 454 of the Code of Criminal Procedure, 1973 (for short 'the Code'). On due consideration, IA No.01/2009 is hereby allowed. Delay of 12 days in filing the instant appeal is hereby condoned. Also perused IA No.01/10, application for taking documents on record. On due consideration, the same is allowed and the photo copy of the documents annexed is taken into record as per provisions of law. The instant criminal appeal has been preferred under Section 454 of the Code against the order passed by the Court below regarding interim custody of the articles during pendency of criminal Case No.36/09 under Section 395 of the Indian Penal Code. The Court below vide order dated 28.7.2009 held that before passing any order on supurdnama, hearing of the accused persons are also necessary. Hence, the Court below has not disposed of the	

	application on its merits rather dismissed on the ground that hearing is also required on behalf of the accused persons. Order passed by the Court below is of about six years and six months ago. There is no any material on record whether the said session trial has been disposed of on its merits and thereby the order passed at the conclusion of the trial. The order itself is of a state of pending of trial Section as Section 454 of the Code is for the appeal against order under Section 452 or 453 of the Code. This Section is not applicable for the order passed by the Criminal Court under the provisions of Section 451 of the Code. From the face of the record, in the considered view of this Court, the instant criminal appeal is not maintainable. Consequently, the instant appeal is dismissed as <i>sense substance</i>. However, if the matter is still pending for trial before the Court below, the appellant may seek further remedy as available under the law. Sd/- (Chandra Bhushan Bajpai) Judge	
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