

HIGH COURT OF CHHATTISGARH, BILASPUR

CrMP No.474 of 2016

1. Yadram son of Shri Siyaram Kahra, aged about 67 years.
2. Gopal Prasad son of Shri Yadram Kahra, aged about 41 years,

Both resident of Siladehi, Police Station Birra, Civil and Revenue District Janjgir-Champa (CG).

---- Petitioners

Versus

State of Chhattisgarh through-District Magistrate, District Janjgir-Champa (CG).

---- Respondent

For Petitioners
For Respondent

Shri Yogeshwar Sharma, Advocate
Shri Lav Sharma, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order On Board

25/04/2016

1. The present petition has been filed against the order dated 29.03.2016 passed by the First Additional Session Judge, Janjgir-Champa in MJC Case No.11/2016 arising out of Sessions Trial No.131 of 2014.
2. Counsel for the petitioner submits that the petitioner were accused in Crime No.32 of 2014 and they have put to trial in Sessions Trial No.131 of 2014 for the offence under Sessions 302/34 and 201 IPC.
3. According to the petitioners, vide judgment dated 28.10.2014 both the accused have been acquitted from the charges and while the order of acquittal was being passed, it was specifically mentioned that the fate of the receipts which were seized during the course of investigation shall be decided as per the order of the appellate court, in case if appeal is preferred. It is further submitted that the State has not preferred any appeal against the said order of acquittal of the

petitioners and as such, the judgment dated 28.10.2014 has attained its finality, and therefore, two fixed deposit receipts belonging to the petitioners are liable to be released to the petitioners, which the court below has refused.

4. According to the petitioners, he had moved an application under Section 457 Cr.P.C. for releasing the receipts, but vide impugned order the court below has rejected the same on the ground that since there was a direction that these two receipts to be released as per the direction given by the appellate court in the event of an appeal.
5. Counsel for the State admits that in the event if there is no appeal preferred by the State questioning the order of acquittal of the petitioners, the petitioners cannot be denied from two receipts being released to them.
6. Having considered the rival contentions put forth by the either side, in particular the fact that since the acquittal order of the petitioners has not been challenged by the State in an appeal, the same has attained its finality and therefore, there is no reason to withhold two receipts of the petitioners. Accordingly, it is directed that two receipts which have been seized by the police authorities during the course of investigation, photocopy of which have been enclosed by the petitioners as Annexure A/2, shall now be released to the petitioners subject to undertaking given by them to the like sum in the form of a security to the satisfaction of the court below.
7. In the event, if any appeal is preferred/pending before any court of law against the order of acquittal, the petitioners shall forthwith deposit both the receipts before the court below or may produce another instrument for the like amount of a Nationalized Bank to the satisfaction of the court below.
8. With the aforesaid direction, this petition is allowed.

Sd/-
(P.Sam Koshy)
Judge