

HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 906 of 2016**

- Naki Emam Khan S/o Mhd. Mustaq Khan Aged About 39 Years Occupation Proprietor Scrape Shop, R/o Mominpara, Jarhagarh, Police Station And Tahsil-Ambikapur, District-Surguja, Chhattisgarh.

---- Petitioner**Versus**

- State Of Chhattisgarh Through District Magistrate, Raigarh, District-Raigarh, Chhattisgarh.

---- Respondent

For Petitioner
For State

Mr. Sunil Tripathi, Advocate
Mr. Bhaskar Pyasi, Panel Lawyer

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****21.11.2016**

1. The present petition under Section 482 of the Cr.P.C. has been filed for grant of seized Scrap property on Supurdnama.
2. Learned Counsel for the Petitioner submits that the police station, Dharamjaigarh on 30.09.2014 has seized the truck loaded with Scrap as there was no satisfactory document produced in respect of the ownership of the Scrap material. The police registered the case under Section 41(1-4) along with Section 379 of the IPC. Meanwhile the present applicant moved an application for release of the said Scrap material. He claims himself a Scrap dealer. The trial Court initially vide its order dated 29.10.2014 rejected the application on the ground that the materials which have been sought for release did not match with the materials which have been seized. Against the

said order of rejection the Petitioner approached the Revisional Court and the Revisional Court vide its order dated 14.11.2014 affirming the order of the trial Court rejected the revision. The two orders that of the trial Court as well as Revisional Court were put to challenge in Cr.M.P. No. 1093/2014. This Court dismissed the application however a liberty was granted to the Petitioner to file application if ownership documents are placed on record and trial court shall pass a suitable order after considering the same. Subsequently, an application was again moved before the trial Court along with supporting documents and the trial Court vide its order dated 02.11.2015 rejected the same. Against which revision petition was also preferred which the Revisional Court vide its order dated 05.02.2016 has rejected.

3. Learned Counsel for the Petitioner submits that he has produced sufficient material before the Court below and also enclosed document which would show the purchase of the Scrap materials from the authorized and recognized persons. He further submits that no fruitful purpose would be served if the Scrap materials are left idle before the Respondent authorities. Therefore, he may be permitted to have the same so that the same can be used.
4. The State Counsel at this juncture submits that though the documents attached with the Petition seems to be doubtful so far as the ownership of the property is concerned but subject to certain conditions imposed by this Court these materials may be released to the present Petitioner.
5. Considering the rival contentions put forth on either side it is directed that the Scrap materials seized by the police authorities on

30.09.2014 shall be released subject to the condition that the Petitioner shall not sell the same nor create any third party right over the Scrap material and shall retain it in proper condition. He shall also undertake that he shall produce the materials as and when required by the prosecution during the course of investigation, trial and even at the appellate stage. He shall further undertake to produce the Scrap materials to any competent authority under different statutes as and when required.

6. With the aforesaid condition the present Cr.M.P. stands allowed.

Sd/-

(P. Sam Koshy)
JUDGE