

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Appeal No. 251 of 2017

Ramcharan Karshal S/o Babu Lal Bhaina, aged about 27 years, R/o Village Khurpa, Police Station Marwahi, Tahsil & District Bilaspur, Chhattisgarh.

---- Appellant

Versus

State of Chhattisgarh through Police Station Marwahi, District Bilaspur, Chhattisgarh.

---- Respondent

For Appellant	:	Mr. S. B. Tiwari, Advocate.
For Respondent-State	:	Mr. Bhaskar Payashi, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

15/02/2017

Heard on I.A. No.01/17 for condonation of delay in filing the appeal.

2. For the reasons assigned in the said application and finding them to be satisfactory, I.A. No.01 is allowed and the delay of 9 days in filing the present appeal stands condoned.
3. The appeal is admitted for hearing.
4. The appeal is being finally disposed of at motion stage with the consent of the State counsel.
5. The present appeal has been preferred assailing the impugned order dated 15.11.2016 passed by the Additional Sessions Judge, Pendra Road, District Bilaspur in S. T. No. 26/2015 to the extent that the vehicle which was seized by the Police Authorities in respect of the alleged commission of the offence has not been ordered to be released to the appellant.
6. Relevant facts of the instant case are that the present appellant and two other accused persons were found to be involved in the commission of an offence under Sections 302, 120B, 201, 34 in Crime No.133/15 registered at Police Station Marwahi. The matter after investigation was put

to trial before the Additional Sessions Judge, Pendra Road, District Bilaspur in Sessions Trial No. 26/15. The Court below after conclusion of the trial vide impugned judgment dated 15.11.2016 found that the prosecution case has not been established beyond reasonable doubt for convicting the accused persons and accordingly, acquitted the accused including the present appellant of the charges levelled against them. While passing the impugned judgment, in paragraph-44 the Court below, however, has made an observation that if no appeal has been preferred, the mobile phones seized from the accused be released to them and the other articles being valueless, the same be destroyed.

7. Counsel for the appellant submits that this observation made by the Court below is incorrect in as much as one of the articles which has been seized is a new Tata Magic bearing Chassis No. MAT445064EVJ42308 and Engine No. 275 IDI06JVYS98780 which has not even got the registration number from the RTO. Therefore, counsel for the appellant prays that the said vehicle may be released to the appellant.

8. Counsel appearing for the State makes a submission that the said observation in paragraph-44 of the impugned judgment seems to be an inadvertent mistake on the part of the Court below and the State does not have any objection if the said vehicle is released to appellant with condition that he shall make available the same as and when an appeal is preferred against the impugned judgment.

9. Considering the total facts and circumstances of the case, it is directed that the seized vehicle belonging to the appellant i.e., Tata Magic bearing Chassis No. MAT445064EVJ42308 and Engine No. 275 IDI06JVYS98780 be released to the appellant upon his furnishing necessary surety to the satisfaction of the concerned trial Court subject to the condition that the appellant shall make available the said vehicle, if required at any

point of time. The appellant shall also undertake that he shall produce the said vehicle if required as and when an appeal is preferred by the State.

10. With the aforesaid observations, the present appeal stands allowed.

Sd/-

(P. Sam Koshy)
Judge

Bhola