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HIGH COURT OF CHHATTISGARH, BILASPUR**CRMP No. 1441 of 2016**

Mitesh Enterprises Through Its Proprietor Shri Lokesh Prakash Agrawal S/o Shyam Lal Agrawal, Aged About 52 Years Occupation- Business, R/o Village- Sagarpali, Post Office- Bichhia, Police Station- Saraipali, District- Mahasamund Chhattisgarh.

---- Petitioner**Versus**

1. State Of Chhattisgarh Through- District- Magistrate, Mahasamund, District- Mahasamund Chhattisgarh.
2. Station House Officer, Mahasamund, District- Mahasamund Chhattisgarh.
3. M. S. Tomar, S/o Madho Singh, Aged About 61 Years Sr. Agriculture Development Officer, Ward No. 14, Basna, Police Station Basna, District- Mahasamund Chhattisgarh.

---- Respondents

For the Petitioner : Shri Awadh Tripathi, Advocate.
 For the Respondent/ State : Shri Ashish Shukla, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****18.07.2017**

1. Heard.
2. Petitioner – Mitesh Enterprises is a registered firm and the Proprietor of this firm is Mr. Lokesh Prakash Agrawal. Smt. Kiran Agrawal is the wife of Lokesh Prakash Agrawal, who was prosecuted for the offence under Section 3(2)/7(1)(a)(ii) of the Essential Commodities Act, 1955 (for short 'the Act') before the Court of Judicial Magistrate First Class, Saraipali and by order dated 27.5.2016 passed in Criminal Case No. 650 of 2011, accused - Smt. Kiran Agrawal has been convicted and sentenced for the offence under Section 3(2)/7(1)(a)(ii) of the Act. This judgment of conviction and order of sentence was challenged before the Court of Additional Sessions Judge,

Saraipali in Criminal Appeal No. 17 of 2016 which was heard and decided on 4.10.2016 whereby the appellant/ accused Smt. Kiran Agrawal was acquitted.

3. During investigation of the case in total 1703 bags of fertilizers were alleged to be recovered and seized from the possession of the accused in the case i.e. Smt. Kiran Agrawal. The trial court while disposing of the case ordered for confiscation of the seized articles. This order of disposal under Section 452 of the Code of Criminal Procedure was not challenged by the appellant/ accused Smt. Kiran Agrawal in the appeal before the Sessions Court. The petitioner has nowhere placed his claim either before the trial court or before the appellate court for order of disposal of the property seized in his favour. There had been an option to challenge the order of disposal of property under Section 452 of the Cr.P.C. made by the trial court in the appeal under Section 454 of the Cr.P.C. before the court of Sessions. Instead of raising the matter in the appeal in the Sessions Court, this petition has been filed by the petitioner.

4. Learned counsel for the petitioner seeks to withdraw this petition with liberty to file an appeal under Section 454 of the Cr.P.C. before the court of Additional Sessions Judge, Saraipali seeking interference in the order of disposal of the property passed by the trial Court.

5. Accordingly, this petition is dismissed as withdrawn with the aforesaid liberty.

Sd/-

(Rajendra Chandra Singh Samant)
Judge