

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No.239 of 2017**

- Vasudev Sarraf, S/o. Satyanarayan Prasad Sarraf, Aged about 58 years, Occupation Business; R/p/ Near Chandani Chowk, Ring Road, Mohalla Mayapur, Police Station & Tahsil ambikapur District Surguja (CG)

---- Appellant

Versus

- State of Chhattisgarh, Through District Magistrate Ambikapur, District (Revenue & Civil) – Surajpur (CG)

---- Respondent

For Appellant	: Shri SD Singh, Advocate
For respondent/State	: Shri Anupam Dubey, Dy. Govt. Advocate

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****20.3.2017**

Heard on IA No.01/17 for interim relief for sending the old notes for exchange to Reserve Bank of India.

2. On due consideration IA No.01/17 is hereby disposed of.
3. The Court below is directed to act upon in the light of instructions, Rules, circulars issued in this respect regarding demonetization of the administration for return of currency notes in existence.
4. Also heard the matter finally.
5. By filing the instant appeal the appellant, i.e. the complainant, has prayed that this appeal may be allowed and the court below be directed to return gold ornaments and other articles along with cash notes in the interest of justice. The trial

Court vide its order dated 31.01.2017 dismissed the prayer of the appellant filed under Section 452 of the Cr.P.C. for return of the articles. The said prayer was dismissed by the trial Court on the ground that as appeals against the judgment dated 20.10.2016 passed by the trial Court in Sessions Case No.377/12 are pending as Criminal Appeal No.1542/16 and 136/17 and 1366/16 before the High Court and unless the High Court gives any direction or instructions till then the prayer for return of the articles is not proper, hence dismissed the application filed under Section 452 of the Cr.P.C.

6. Perused judgment dated 20.10.2016. The trial Court in para 29 of the said judgment passed the order regarding disposal of the property at conclusion of the trial. With this, subsequent application filed under Section 452 of Cr.P.C is not maintainable as the court below already decided the factum of disposal of property at the conclusion of the trial i.e. 20.10.2016. After this order as in para 29, the trial Court become function officio and thereafter the trial Court cannot consider the application in fresh under Section 452 of the Cr.P.C. With this, subsequent application under Section 452 Cr.P.C. is unwarranted as there is order in para 29 of the judgment dated 20.10.2016. Till date as there is no order of this court prohibiting the trial Court to return the property and merely on the fact that the above criminal appeals are pending, return of the property cannot be stopped. The Court below is directed to act upon the judgment dated

20.10.2016 as per para 29 for the disposal of the property as there is no stay from this Court.

7. Appeal disposed of.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE