

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****Criminal Appeal No. 147 of 2018**

Smt. Aruna Dwivedi W/o Dhanan Jay Dwivedi Aged About 52 Years R/o  
E W S 24 Deena Dayal Utail Satana District Satna Madhya Pradesh,  
District : Satna, Madhya Pradesh.

**---- Appellant****Versus**

1. State Of Chhattisgarh Through Police Station Nagarnar District Bastar Chhattisgarh, District : Bastar(Jagdarpur), Chhattisgarh
2. Himanshu Dwivedi S/o Dhananjay Dwivedi Aged About 27 Years R/o M. P. H. B. Colony Utaili, E. W. S., 24 Satna District Satna M. P., District : Satna, Madhya Pradesh
3. Pramod Roy S/o Shri Ram Kishore Roy R/o Naraini District Banda U. P., District : Banda, Uttar Pradesh

**---- Respondents**


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| For Appellant         | : | Shri Anil Gulati, Advocate on behalf of<br>Shri P.K. Tulsyan, Advocate. |
| For Respondent/ State | : | Shri Rahul Tamaskar, P.L.                                               |

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**Hon'ble Shri Justice Rajendra Chandra Singh Samant****Judgment on Board****12/09/2018**

(1) This appeal has been preferred under Section 454 of the Cr.P.C. praying to set aside the order of disposal passed by the trial Court dated 25.11.2017 in Special Case No. 10 of 2016 and for granting the custody of the seized vehicle to the appellant.

(2) It is submitted that the appellant was not one of the accused in Special Case No. 10 of 2016. The Ford Car bearing Registration No.M.P. 19 C.A. 8972 was seized from the possession of the accused persons and one of the accused – Himanshi Dwivedi is son of the appellant. The appellant is the registered owner of the seized vehicle

and she is not connected with the commission of the said offence. Even though, the accused persons in the case have been acquitted by the trial Court, the order has been passed to confiscate the seized vehicle, which is totally uncalled for. Hence, it is prayed that the appeal be allowed and the order of disposal passed by the concerned Court be set aside.

(3) Learned State counsel opposes the grounds raised in this appeal and submits that till date no proceedings have been drawn by the Collector of the concerned District to confiscate the vehicle under seizure in this case.

(4) I have heard learned counsel for the parties, perused the judgment impugned and records of the Court below.

(5) On perusal of the impugned judgment, it is not disputed that the vehicle was seized jointly from the accused persons in this case and according to the documents produced alongwith this appeal, it appears that this appellant is the registered owner of the said vehicle.

(6) Consequent to the acquittal of the accused persons in this case, the normal course of disposal of seized property should have been, to return the seized property of the accused persons as the vehicle is not a contraband and that it was not proved in the case that the same vehicle was being used by the accused persons in transporting the contraband. Hence, for these reasons, the appeal is allowed and the order passed by the trial Court in the impugned judgment regarding disposal of the seized

property is modified with respect to the disposal of the seized vehicle. Accordingly, it is ordered that the seized vehicle Ford Car bearing registration No. M.P. 19 C.A. 8972 be returned to the person entitled on producing the documents of entitlement and if necessary, after an enquiry is made in this respect.

(7) Accordingly, the appeal is disposed off.

Sd/-

(Rajendra Chandra Singh Samant)  
**JUDGE**