

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Criminal Appeal No. 266 of 2010**

Dhyandas, s/o Shri Pratap Singh, Aged about 51 years, R/o Village Devri, Tah. & P.S. Sakti, District Janjgir Champa (CG)

---- Appellant

Versus

State of Chhattisgarh Through SHO PS, Sakti, Tah. Sakti, District Janjgir Champa (CG)

---- Respondent

For Appellant : Shri Ravish Verma, Advocate

For State/Respondent : Shri S.K. Mishra, Panel Lawyer

HON'BLE SHRI JUSTICE RAM PRASANNA SHARMA**JUDGMENT ON BOARD****19/9/2018**

1. This appeal is preferred under Section 454 of the Cr.P.C. against the order dated 17.4.2007 passed by the Additional Sessions Judge, Sakti, Sessions Division Janjgir Champa (CG) in relation to the property seized in ST No. 327/95 for commission of offence under Sections 395, 397 of the I.P.C. and Sections 25 and 27 of the Arms Act, 1959, wherein the said Court has dismissed the application filed by the appellant under Section 452 Cr.P.C. for delivering the custody of property seized in the said case. The appellant is the sole claimant of the said property.

2. In the present case, six persons were charge-sheeted for commission of said offence out of which, two were tried by the Additional Sessions Judge, Sakti in ST No. 327/95 vide judgment dated 2.8.2004, the trial Court opined that since other co-accused are absconding, no

order is passed for disposal of the property. Again, application under Section 452 Cr.P.C. filed before the said Court was dismissed on 17.4.2007.

3. From the F.I.R. of the said case, it is clear that the same was lodged by the appellant and during trial no one claimed regarding ownership of the said property. It is a case of year 1994 and no proceeding is on before the trial Court, therefore, the appellant on whose instance the F.I.R. was lodged with description of property, which is subject matter of the crime in question and the appellant is the sole claimant of the property seized in the case, is entitled for custody.

4. Looking to the fact that 24 years have been passed and no one is claiming for the seized property, it would be proper to deliver the custody of the seized property in favour of the appellant with certain conditions. Accordingly, the appeal is allowed and the trial Court is directed to deliver all the property seized in the said Sessions Trial/offence to the appellant on his furnishing a personal bond in sum of Rs.20,000/- with a condition that if the property is required by the Court in future within one year of this order, the appellant shall produce the same before the said Court.

5. Record be sent back to the Court concerned immediately.

6. With the above direction, the appeal stands disposed of.

Sd/

(Ram Prasanna Sharma)
JUDGE