

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Writ Jurisdiction Case No.742 of 2019

Arising Out of PS. Case No.-217 Year-2009 Thana- BIKRAM District- Patna

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Shail Kumari Devi wife of Yogendra Singh, resident of village-Khoraittha,
P.S.-Bikram, District-Patna

... .. Petitioner/s

Versus

1. The State of Bihar through the Director General of Police, Bihar, Patna
2. The Superintendent of Police, Patna.
3. The Station House Officer, Bikram Police Station, Patna.

... .. Respondent/s

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Appearance :

For the Petitioner/s : Mr. Dewendra Narayan Singh, Advocate
For the Respondent/s : Mr. Mrigendra Kumar, AC to GA-4

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL JUDGMENT

Date : 30-04-2019

This application under Articles 226 and 227 of the Constitution of India has been filed by the petitioner for directing the respondents to release all the seized golden, silver jewelleryes and other articles mentioned in the production-cum- seizure list prepared in connection with Bikram P.S. Case No.217 of 2009 registered under Sections 304-B, 201, 323 and 34 of the Indian Penal Code.

2. Mr. Devendra Narayan Singh, learned counsel for the petitioner submitted that the petitioner and her other relatives were charge-sheeted in connection with Bikram P.S. Case No.217 of 2009. The case was committed to the Court of Session. After framing of the charges, they were put on trial in Session Trial



No.1111 of 2012 before the learned Additional District and Session Judge-VII, Danapur. On completion of trial, they were acquitted of all the charges vide judgment dated 17.03.2015. After the petitioner and others were acquitted, on 16.09.2015, the petitioner submitted an application before the Superintendent of Police, Patna for directing the concerned authority to release all the jewellerys in her favour but no order has been passed by the Superintendent of Police in her application. Thereafter, the petitioner submitted another application before the Superintendent of Police, Patna as well as the officer-in-charge, Bikram Police Station on 11.06.2018 for the release of the properties so seized in her favour but till date no order has been passed on the application.

3. The State has contested the matter. Mr. Mirgendra Kumar, learned AC ot GA-4 submitted that the instant application under Articles 226 and 227 of the Constitution of India is misconceived. The petitioner has a statutory remedy under Section 452 of the Code of Criminal Procedure (for short 'Cr.P.C.'). He ought to have filed an appropriate application before the trial court itself under Section 452 of the Cr.P.C. and prayed for release of the seized property instead of representing before the police authority after the criminal trial had ended into acquittal.



4. I have heard learned counsel for the parties and perused the record.

5. Section 452 of the Cr.P.C. deals with disposal of the property at conclusion of trial. It reads as under:-

"452. Order for disposal of property at conclusion of trial.

(1) When an inquiry or trial in any Criminal Court is concluded, the Court may make such order as it thinks fit for the disposal, by destruction, confiscation or delivery to any person claiming to be entitled to possession thereof or otherwise, of any property or document produced before it or in its custody, or regarding which any offence appears to have been committed, or which has been used for the commission of any offence.

(2) An order may be made under sub-section (1) for the delivery of any property to any person claiming to be entitled to the possession thereof, without any condition or on condition that he executes a bond, with or without sureties, to the satisfaction of the Court, engaging to restore such property to the Court if the order made under sub-section (1) is modified or set aside on appeal or revision.

(3) A Court of Session may, instead of itself making an order under sub-section (1), direct the property to be delivered to the Chief



Judicial Magistrate, who shall thereupon deal with it in the manner provided in sections 457, 458 and 459.

(4) Except where the property is livestock or is subject to speedy and natural decay, or where a bond has been executed in pursuance of subsection (2), an order made under subsection (1) shall not be carried out for two months, or when an appeal is presented, until such appeal has been disposed of.

(5) In this section, the term "property" includes, in the case of property regarding which an offence appears to have been committed, not only such property as has been originally in the possession or under the control of any party, but also any property into or for which the same may have been converted or exchanged, and anything acquired by such conversion or exchange, whether immediately or otherwise."

(emphasis mine)

6. From a reading of the aforesaid provision of the Cr.P.C., it would be evident that when trial in any court is concluded, the court concerned may make an appropriate order for disposal, by destruction, confiscation or delivery to any person claiming to be entitled to possession thereof. Such an order may be conditional or without any condition. Sub-section (3) of the aforesaid provisions gives discretion to a Court of Session to direct



the property to be delivered to Chief Judicial Magistrate, who shall be required to deal with such property in the manner prescribed under Sections 457, 458 and 459 of the Cr.P.C.

7. In case of any grievance against the order passed under Section 452 of the Cr.P.C., the person aggrieved may even file an appeal under Section 454 of the Cr.P.C.

8. In view of the statutory remedies provided under Sections 452 and 454 of the Cr.P.C., as discussed above, I am not inclined to entertain this application in extraordinary writ jurisdiction. The application is dismissed.

9. In case, an application under Section 452 of the Cr.P.C. is filed before the trial court, it shall be required to dispose of the application expeditiously, preferably within two months from the date of filing of the application in accordance with law without being prejudiced in any manner by the order passed by this court in the present application.

(Ashwani Kumar Singh, J)

Md. S/-

AFR/NAFR	NAFR
CAV DATE	N/A
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