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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

***CRIMINAL APPLICATION NO.1229 OF 2018
(For Return of Property)
IN
CRIMINAL APPEAL NO.513 OF 2010***

Merry K. Mathew Joseph ...Applicant
(Orig. Complainant)

IN THE MATTER BETWEEN

Mohsin Ibrahim Sayyed ...Appellant

Versus

State of Maharashtra ...Respondent

Mr.S.Y.Kale, for the Applicant/Original Complainant.

Mr.Sohail Ahmed, for the Appellant/Accused.

Mr.V.V.Gangurde, A.P.P for the Respondent - State.

CORAM : REVATI MOHITE DERE, J.

DATE : 2nd APRIL, 2019

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the Applicant (Original Complainant)

seeks return of certain properties mentioned in paragraph 4 of this Application. However, during the course of hearing, he restricts his submission to Article No.6 – Photo Frame of God and Article No.10 – Gold Lagad.

3. Learned Counsel for the Applicant (Original Complainant) submitted that in paragraph 21 of the Judgment, the learned Judge has observed that none of the accused have claimed ownership of Article No.10 – Gold Lagad and therefore the original complainant i.e. the Applicant is entitled to receive the same.

4. Learned Counsel for the Appellant-Accused does not claim ownership of the said Article No.10 – Gold Lagad and has no objection, if the articles are returned to the Applicant (Orig. Complainant) on executing a Supratnama/Indemnity Bond.

5. Learned APP also submits that the articles can be returned to the Applicant (Orig. Complainant) on executing a Supratnama/Indemnity

Bond.

6. Perused the papers. The Applicant is the Original Complainant and is examined as PW1 in the said case. According to the Applicant (Original Complainant), the accused committed offences punishable under Sections 394, 395 of the Indian Penal Code, under Sections 4 and 25 of the Arms Act and under Sections 37(1)(a) r/w 135 of the Bombay Police Act. The Accused have been convicted for the said offences and their Appeal against the said conviction is pending in this Court. The learned Ad-hoc Additional Sessions Judge, City Sessions Court, Sewree, Bombay, in its Judgment dated 29th March, 2010, has observed in paragraph 21, that none of the accused have claimed ownership of Article No.10 – Gold Lagad and as such the Applicant (Original Complainant) is entitled to receive the same. As far as the Article No.6 – Photo Frame of God is concerned, learned counsel for the Accused also does not claim ownership of the said article i.e. Article No.6 – Photo Frame of God.

7. Accordingly, the Application is allowed, on the following terms and conditions:-

ORDER

- (i) The Applicant (Original Complainant) be handed over Article No.6 – Photo Frame of God and Article No.10 – Gold Lagad, on executing a Supratnama/Indemnity Bond. The said bond to be executed in the trial Court;
 - (ii) The Applicant (Original Complainant) shall not create any third party interest nor will sell the aforesaid Articles, till the Appeal is finally decided by this Court.
8. The Application is allowed and disposed of in above terms.
9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.