

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1327 OF 2016
IN
CRIMINAL APPEAL NO. 840 OF 2004**

Shripal Maruti Kamble and Anr. ...Applicants

In the matter between

Vijir Bapu Talvar ...Appellant

Vs.

The State of Maharashtra ...Respondents

Mr. Ranjeet H. Patil Advocate for Applicant.

Mr. Y. M. Nakhwa, APP for the Respondent State.

Mr. Rakesh Raju Dabhade, P.C. Vishrambaug Police Station, Sangli.

CORAM : SMT. SADHANA S. JADHAV, J.

DATE : 06TH MARCH, 2019

P.C.:

1. Heard. This is an application filed under section 457 of the Code of Criminal Procedure. The applicant has been the original complainant/victim in Sessions Case No.113 of 2003. The accused in the said case was convicted by the Sessions Court for the offences punishable under sections 363, 366 and 376 of the Indian Penal Code with rigorous imprisonment of five years and fine of Rs.2,000/-. The learned Sessions Court had passed an order to the effect as follows :-

“The Muddemal articles i.e. general article Nos. 1 to 5 and general muddemal article No. 13/2004 i.e. clothes of accused and victim being worthless be destroyed after appeal period is over.

The valuable muddemal as per V.P.M.R. No. 2/2004 i.e. golden ear tops, golden chain and golden ring be returned to the complainant Shripal Kamble after the appeal period is over.”

2. The accused has filed criminal appeal No. 840 of 2004 which is pending in this Court.
3. The learned Sessions Court upon appreciating the evidence adduced by the prosecution has directed that the jewellery / muddemal article should be returned to the complainant.
4. Learned APP has filed the record stating that the said jewellery is maintained in the original form. In view of this, the applicant is entitled for seeking return of the property. The present application has been filed only for compliance of the operative order passed by the learned Sessions Judge. In view of this, application is allowed in terms of prayer clause (a). The applicant shall make fresh application before the Sessions Court and the Sessions Court upon verification of the identity of the complainant shall return the property to the applicant.
5. Learned counsel submits that at the trial, the accused had also admitted that the said article / jewellery belonged to the complainant. Hence, application deserves to be allowed in terms of prayer clause (a) and stands dismissed.

Sd/-
(SMT. SADHANA S. JADHAV, J.)