

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

**CRIMINAL APPLICATION NO.1157 OF 2019
IN
CRIMINAL APPEAL NO.1376 OF 2012**

Rajeev Kumar S/o. N.K. Prasad ..Applicant
Vs.
The State of Maharashtra & Anr. ..Respondents

Mr.Rajiv Kumar Applicant present in person.
Mr.S.H. Yadav, APP, for the Respondent-State.
Ms.Ameeta Kutikrishnan for Respondent No.2.

CORAM : C.V. BHADANG, J.

DATE : 29 OCTOBER 2021

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P.C.

. This is an application filed by the Applicant/Appellant for return of the documents/articles which are not relied upon by the prosecution. The applicant had applied before the learned Special Judge and the learned Special Judge by an order dated 26 March 2015 had directed return of the certain articles in List-1 and article No.9 in List-2 which are not relied upon by the prosecution.

2. The applicant is aggrieved by the refusal to return articles at Serial Nos.8 and 10 which respectively comprise of an

amount of Rs.1,15,000/- and Rs.30,500/- which were seized from the cabin of the applicant at the time of the raid.

3. I have heard the applicant appearing in person and the learned Special Public Prosecutor.

4. It is not disputed that the prosecution against the applicant was only regarding the trap and there was no prosecution on the allegation that the applicant was having assets disproportionate to the known source of income.

5. The applicant who appears in person has pointed out paragraph 4 of the reply dated 26 March 2015 filed by the respondent before the learned Special Judge which reads thus :-

“4. That further in the List-2, there 10 items, out of which items mentioned at Srl. No.1 to 4 are the case properties and hence they are the relied upon items. Item mentioned at Srl.Nos.5 to 7 have already been returned to the accused and items mentioned at Srl. No.8 and 9, both unrelieved upon items, are lying with the Prosecution in the Malkhana and item at Srl. No.10, also unrelieved upon item, is lying the Locker of Bank of Baroda maintained by the prosecution.”

6. During the course of the argument it is not disputed that both these articles i.e. article Nos.8 and 10 of List-2 which comprise of the cash recovered from the cabin of the applicant are not relied

by the prosecution. In that view of the matter application is allowed in terms of prayer Clause (A).

7. The amount at Serial No.8 and 10 of List-2 as aforesaid shall be returned to the applicant subject to an undertaking that the applicant shall bring back the same if ordered by this Court.

8. The Criminal Application is disposed of in the aforesaid terms.

C.V. BHADANG, J.