

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION (APPA) NO. 1175 OF 2017
IN
CRIMINAL APPEAL NO. 1016 OF 2009**

Nanda Madhukar Desai

... Applicant

(Org. Resp. No.5)

In the matter between :-

The State of Maharashtra

... Appellant

V/s.

Ashish Madhukar Desai & Ors.

... Respondents

Dr. A.L. Gore for Applicant in APPA/1175/2017 and for Respondent No.5 in Appeal/1016/2009.

Mr. J.P. Yagnik, A.P.P. for Appellant-State.

P.S.I. Mr.Narayan Dalvi, Vile Parle Police Station is present.

Ms. Farzana Khan i/b. Harshad Palwe for Applicant in Revn/40/2009.

**CORAM : A. S. GADKARI AND
SHYAM C. CHANDAK, JJ.**

DATE : 23rd February 2024.

P.C. :

1) This is an Application by the Respondent No.5, Original Accused No.5 in Sessions Case No. 818 of 2007, for return of ornaments and articles mentioned in Exh-A (page 10 & 11) to the present Application and mentioned at Exh-12 and 12-B as more specifically stated in paragraph No.3 of operative part of Order dated 12th November, 2008 passed by the trial

Court, in the present Appeal.

2) The Applicant is original accused No.5 and Respondent No.5 in the Appeal preferred by the State against the Judgment and Order of acquittal dated 12th November 2008. The Applicant along with other accused persons has been acquitted from the offences punishable under Sections 498A, 304B, 323, 406, 504 & 506 read with 34 of the Indian Penal Code by the trial Court.

2.1) The para No.3 of Operative part of said Order reads as under :-

“The muddemal articles, all gold ornaments and Credit Cards, account books, T. V. set, wooden dressing table, wooden folding bed, double door fridge, 3 sarees and 4 Punjabi suits, and all other articles mentioned in list of Articles at Ex.12 and the mobile phone mentioned in list of Articles Ex.12-B, be returned to the accused no.5 Nanda Madhukar Desai.”

3) Learned A.P.P., on instructions from Police Sub-Inspector Mr.Narayan Dalvi attached Vile Parle Police Station, Mumbai, submitted that, the State has no serious objection if the said articles are returned to the Applicant as per the directions issued by the trial Court by its Order dated 12th November 2008.

4) In view thereof, we direct the Registry of the trial Court that, the said articles mentioned in para No.3 of Operative part of Order dated 12th November 2008 be returned to the Applicant on her furnishing Indemnity

Bond and an undertaking including a clause therein that, in the event if this Court directs her to produce the said articles at the time of final disposal of the Appeal, she will produce the same.

5) Application is accordingly allowed in terms of prayer clause (a) and in the aforesaid terms.

(SHYAM C. CHANDAK, J.)

(A.S. GADKARI, J.)

SANJIV
SHARNAPPA
MASHALKAR

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by SANJIV
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