CGHC010070772022 2026:CGHC:45319

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

SANTOSH KUMAR SHARMA
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Date: 2026.10.27 23:38:28 +0530

CRR No. 232 of 2022

Order reserved on 19.08.2026

Order delivered on 27.10. 2026.

Pappu @ Madhav Soni S/o Ramjiyavan Aged About 50 Years R/o Behind F.C.I. Godam, Manendragarh, District- Koriya, Chhattisgarh, District : Koriya (Baikunthpur), Chhattisgarh

... Applicant (s)

versus

State Of Chhattisgarh Through- Police Station Jhagra-Khand, District- Koriya, Chhattisgarh, District : Koriya (Baikunthpur), Chhattisgarh

... Respondents

For Applicant	:	Mr. Siddharth Dubey, Advocate
For Respondents	:	Mr. Amit Verma, Panel Lawyer

Hon'ble Shri Justice Narendra Kumar Vyas

C A V Order

1. This revision under Secton 438 read with Section 397 & 401 of the CrPC has been filed by the applicant assailing the order dated 12.01.2022 passed in CRA No. 34 of 2020 by learned First Additional Sessions Judge, Manendragarh whereby applicant's appeal with regard

to possession of gold & silver jewellery (ornaments) seized from the applicant has been dismissed by the Appellate Court and affirmed the order dated 10.02.2020 passed in Criminal Case No. 403 of 2016 by learned Judicial Magistrate, First Class Manendragarh District Koriya, by which learned trial Court in paragraph-17 has ordered for confiscation of seized articles of 36 mg gold worth of Rs. 1 lakh 8 thousands seized from possession of the applicant.

2. Facts of the case in brief are that an Istgasa/Crime No. 04/14 under Sections 41(1-4) Cr.P.C. under Section 379 and 411 of the Indian Penal Code was registered at the instance of Sub Inspector Shivendra Rajput. It is alleged that during investigation, it was found that co-accused Rajesh Ghasiya, Jitendra and Mangalsai Basor, operating an organized gang used to commit theft of gold and silver ornaments/jewellery from passengers who were travelling in trains running from Chirmiri to Bilaspur and sold the stolen jewellery to applicant Madhav Soni. During search, the police seized 36 grams of melted gold, worth ₹ 1,08,000/- from the possession of the applicant. Memorandum statements of Rajesh Sarti, Jitendra @ Jitu and Mangal Sai were recorded under (Ex.P-1, Ex.P-2, Ex.P-3) and after completing necessary formalities, the Police lodged FIR (Ex.P-4) and arrested the applicant and other co-accused. After completion of the investigation, charge-sheet was filed before Judicial Magistrate First Class, Manendragarh against all the accused including the applicant.

3. Learned Judicial Magistrate First Class Manendragarh after considering the material, evidence on record has acquitted the applicant and other co-accused of the charges under Sections 397/34 and 411 of the IPC and has ordered for confiscation of 36 grams gold total worth Rs. 1 lakh 8 thousands in favour of the State Government as the applicant has not claimed ownership of the aforesaid property. Against that order, the applicant has filed Criminal appeal before the Appellate Court wherein the appellate Court has affirmed the order of the learned trial Court and has dismissed the appeal. Being aggrieved with the order of the Appellate Court, the applicant has filed this Criminal Revision before this Court.

4. Learned counsel for the applicant would submit that the orders passed by the Appellate court as well as trial Court are bad in law and contrary to the facts and material available on record as he has submitted bills, document of sale and purchase to demonstrate that he has ownership of the property. He would further submit that the applicant having been acquitted of the offence of theft, therefore, being the owner the property should have been delivered to him. He would further submit that the prosecution failed to prove that the applicant was involved in selling and purchasing of theft gold ornaments and the items were seized from his possession, therefore, ownership lies with the applicant only, as such order of the court below for confiscation of the seized property is illegal and would pray for setting aside the orders passed by both the Courts below.

5. On the other hand learned counsel for the State opposes the submission made by learned counsel for the applicant and would submit that the orders passed by the trial Court as well as Appellate Court are legal, justified as no illegality or irregularity has been pointed out by the applicant which entitle this court to interfere in the orders while exercising its revisional jurisdiction and would pray for dismissal of revision.

6. I have heard learned counsel for the parties and perused the records.

7. From the submission made by the parties and the record of the trial Court the point emerges for determination is whether the order of the Appellate Court affirming the order dated 10.02.2022 passed by Judicial Magistrate, First Class Manendragarh ordering for confiscation of seized property after conclusion of trial suffers from perversity and illegality warranting interference by this Court.

8. For better understanding the point of determination, it is expedient for this Court to extract Section 452 CrPC.

Section 452 CrPC 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 sub-section (2), an order made under sub-section (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.

9. From the above stated provisions of CrPC, it is quite vivid that proceeding under Section 452 operates for disposal of the property at conclusion of the trial, as such the person claiming ownership of the property seized crime can very well take assistance of seizure memo which are duly proved by examining the witnesses during the trial, and the accused has also opportunity to explain the circumstances of availability of the property on his memorandum statement recorded under Section 27 of the Evidence Act then only entitlement of ownership of the person can be determined, therefore, this Court has to consider the memorandum statements of the accused persons and seizure memo while determining the ownership of the seized articles.

10. From the memorandum statement of co-accused Rajesh Sarthi, Jitendra @ Jittu Sarti and Mangal Sai recorded under Section 27 of the Evidence Act, it is quite vivid that they have sold gold 3-4 tolas to Pappu Soni after committing theft from the passengers traveling in trail from Chirmiri to Bilaspur.

11. It is pertinent to mention here that Section 27 of the Evidence Act, provides that when any fact is deposed with regard to discovery in consequence of information received from a person accused of any offence, in the custody of a police officer, so much of such information will be distinctly related to the fact discovered, may be proved. Section 27 of the Evidence Act, has recently come up for consideration before the Hon'ble Supreme Court in the case o**f Neelu @ Nilesh Kosti vs. State of Madhya Pradesh reported in 2026 INSC 173** wherein the Hon'ble Supreme Court has held in paragraph 22 as under:-

> 22) The aforesaid legal position was comprehensively reiterated and elaborate d upon by this Court in Bodhraj Alias Bodha and Others vs. State of Jammu and Kashmir 2002 (8) SCC 45, wherein the question of whether evidence relating to recovery is sufficient to fasten guilt on the accused was examined at length. This Court held that for evidence under Section 27 to be admissible, the information must emanate from an accused who is in police custody. The Court elucidated that the basic idea embedded in Section 27 is the doctrine of confirmation by subsequent events when a fact is discovered on the strength of information obtained from a prisoner, such discovery serves as a guarantee of the truthfulness of the information supplied. The Court further observed that whether the information is confessional or non-inculpatory in nature, if it results in the discovery of a fact, it becomes reliable information. Significantly, it was held that the mere recovery of an object does not constitute the discovery of fact envisaged in the section. Relying on the Privy Council's decision in Pulukuri Kottayya and Others vs. King Emperor AIR 1947 PC 67, the Court held that the "fact discovered" embraces not merely the object recovered, but the place from which the object was produced and the knowledge of the accused as to its existence, and that the information given must relate distinctly to that effect.

12. Considering the aforesaid legal position and the facts of the case, the information given by the accused in the police custody regarding discovery of theft gold distinctly related to the fact discovered under

Section 27 of the Evidence Act as the recovery of gold from the precise location could only have been made on the basis of information furnished by someone who had personal knowledge about it.

13. Further considering the position of law that for proceeding under Section 452 CrPC the memorandum statement of the accused is piece of evidence for the purpose of considering and deciding who is the best person entitled to possession of the property. The Hon'ble Supreme Court in the case of **Mahesh Kumar vs. State of Rajasthan reported in 1990 supp SCC 541** has examined this issue and has held as under:-

> 2. In the facts and circumstances of the present case, we are satisfied that the direction made by the learned Single Judge of the Rajasthan High Court for the forfeiture of the amount of Rs 20,000 (Rupees twenty thousand) to the State is wholly unwarranted. It is now accepted principle that the confessional part of the statement made by the accused leading to discovery within the meaning of Section 27 of the Evidence Act, 1872 or Section 162 of the Code of Criminal Procedure, 1973 can be made use of for purpose of and the disposal of property under Section 452 of the Code. There is a long line of decisions laying down the principle and we would refer to only a few of them.
> 3. In Queen Empress v. Tribhovan Manekchand a Division Bench of the Bombay High Court laid down that the statement made to the police by the accused persons as to the ownership of property which was the subject matter of the proceedings against them although inadmissible as evidence against them at the trial for the offence with which they were charged, were admissible as evidence with regard to the ownership of the property in an enquiry held by the Criminal Procedure Code. The same view was reiterated in Pohlu v. Emperor where it was pointed out that though there is a bar in Section 25 of the Evidence Act, or in Section 162 CrPC for being made use of as evidence against the accused, this statement could be made use of in an enquiry under Section 517 CrPC when determining the question of return of property. These two decisions have been followed by the Rajasthan High Court in Dhanraj Baldeokishan v. State and

the Mysore High Court in Veerabhadrappa v. Govinda. In the present case, the amount in question was seized from the accused in pursuance of statements made by them under Section 27 of the Evidence Act. The High Court as well as the courts below have found the property to be the subject of theft and the acquittal of the accused is upon benefit of doubt. The accused persons disclaimed the stolen property and there is no reason why the same should not be returned to the owner i.e. the complainant to whom it belongs.

14. The High Court of Madhya Pradesh in the case **Kamarlal and another vs. State of M.P. and another** reported in **1992 SCC Online M.P. 246** has held as under:-

9. The learned counsel appearing on behalf of the complainant-accused has placed reliance on a decision of this court of Babulal v. State of M.P (1989 C.Cr.J 11) wherein it has been observed that the power of the criminal court under S. 452, Cr.P.C. to make an order for the disposal of the property at the conclusion of the trial is summary in nature and on order so made does not adjudicate upon the civil rights of the parties and the persons aggrieved are free to file a civil suit for enforcement off their rights in the property and that the provisions under the law do not bar statement of the accused made to the police officer during investigation being used to determine the person to whom custody of the property could be delivered.

(10.) In the instant case, the argument of the learned counsel for the petitioners-Accused is that that the property in dispute belongs to the Accused persons and the police seized the property from the Accused persons and implanted the same for the purpose of seizure in pursuance of memorandum under S. 27 of the Evidence Act. This argument in my opinion, has no legs to stand. If the police had seized the property belonging to the Accused persons from them, it was but natural that they would have made complaint of such highhandedness on the part of police at some forum. It was also expected in that circumstances that the Accused persons would, from the very outset make a claim to the property as belonging to them but they advisedly kept silent for some time even after the complainant made an application under S. 452 of the Cr. P.C. The Accused persons also denied any seizure of the property from them in the examination of the Accused. In these circumstances, no claim has been established of the Accused over the property which was the subject matter of the alleged offence of theft. In fact, the Accused persons have

> been acquitted because they were not found to be in possession of the property which was allegedly seized from them. Moreover, as observed in the case of Babulal (supra) the disposal of property u/S. 452, Cr. P.C. is summary in nature and subject to proper adjudication of civil rights of the parties in a civil suit by the person aggrieved. In view of the discussions aforesaid, I do not find any force in this revision, which is, therefore, dismissed. Revision dismissed.

15. Similar views have also been taken by the High Court of Kerala in the case of **Thampi Chettiar Arjunan Chettiar vs. State and another reported in 1995 Criminal Law General 1185, High Court of Bombay in the case reported in 2007 SCC Online Bombay 1214 and Allahabad High Court also in the case of Vishnu Kumar Agrawal vs. State of U.P. and others reported in 2022 SCC Online All 1766.**

16. In light of the above legal position now this Court is examining the finding of the Appellate Court while relying upon the seizure memo and memorandum statement to disentitle the applicant in claiming ownership of the seized article is justified or not.

17. From perusal of the impugned order, it is quite vivid, that the Appellate Court has taken into consideration the seizure memo (Ex.P-4) wherein it has been mentioned that the articles were seized from the applicant and has also taken into consideration the seizure memo of the other co-accused (Ex.P-1 to Ex.P-3) and has further taken into consideration question No. 2 and 4 which have been asked from the applicant while examining under Section 313 of the CrPC wherein he has given reply that he does not know regarding his signature in the seizure memo

which clearly proved that he has never claimed ownership of the article seized from him.

18. Even applicant-accused in his statement recorded under Section 313 CrPC has not stated anything regarding ownership of the property seized as well as seizure of the property from him as reflected from the records and there is no whisper by the applicant about the ownership of the seized articles. Thus it is quite vivid, that the applicant has nowhere claimed ownership of the property when the occasion was available to him, therefore, I am of the view that the learned Appellate Court has not committed illegality in dismissing the appeal filed by the applicant. Consequently, the impugned orders dated 10.02.2020 passed by the learned Judicial Magistrate Koria wherein in paragraph-17 it was directed for confiscation of seized gold as affirmed by the learned Appellant Court First Additional Sessions Judge, Manendragarh in CRA No. 34 of 2020 decided on 12.01.2022 does not suffer from perversity, illegality or the learned Courts below have not transgressed its jurisdiction which warrants interference by this Court while exercising revisional jurisdiction.

19. Consequently, the instant revision sens merit and is liable to be dismissed. Accordingly, it is dismissed.

Sd/-

(Narendra Kumar Vyas)
Judge

Santosh