

(2018) 02 BOM CK 0114
In the Bombay High Court
Case No : 39 of 2018

Madhukar s/o Shriram Khandagale

APPELLANT

Vs

State of Maharashtra

RESPONDENT

Date of Decision : 05-02-2018

Acts Referred:

[Code of Criminal Procedure, 1973](#), [Section 452](#) — Order for disposal of property at conclusion of trial

Citation : (2018) 02 BOM CK 0114

Hon'ble Judges : Rohit B. Deo

Bench : Division Bench

Advocate : Vivek Awchat, N.H. Joshi

Final Decision : Allowed

Judgement

1. Heard Shri Vivek Awchat, learned Counsel for the appellant and Shri N.H. Joshi, learned Additional Public Prosecutor for the respondent/State.

2. The challenge is to the order dated 22-12-2017 rendered by the learned Additional Sessions Judge, Yavatmal in Misc. Criminal Application 73/2017, by and under which the application for releasing vehicles auto-rickshaw bearing number MH-29/AD-7599 and auto-rickshaw bearing number MH-29/AM-0672 on supratnama under Section 452 of the Criminal Procedure Code is rejected.

3. The rejection is entirely founded on the fact that Criminal Appeal 536/2017 is pending before this Court in which the judgment and order dated 12-10-2017 in Special Case (POCSO) 42/2015 is

impugned.

4. The appellant, who is convicted by and under the said judgment, is prima facie the owner of the two vehicles and it is not disputed before me that the two vehicles were seized from the appellant.

5. Notwithstanding the conviction and the pendency of the appeal challenging the judgment of conviction, there is no reason why the two vehicles should be detained.

6. The only relevance of two auto-rickshaws which are detained by the investigating agency, is that the victim was taken in one of the two auto-rickshaws.

7. The order impugned is unsustainable, and is set aside.

8. Misc. Criminal Application 73/2017 is allowed.

9. Auto-rickshaw MH-29/AD-7599 and Auto-rickshaw MH-29/AM-0672 be released, on the appellant executing bond to the satisfaction of the trial Court.

10. The criminal appeal is allowed.