

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.61 of 2015

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Ram Parikshan Gupta, Sub Inspector of Police, Son of Late Saudagar Sahu,
Resident of Village - Tharhi, P.S- Andhra Tharhi, District - Madhubani,

.... Appellant/s

Versus

The State of Bihar through Department of Vigilance, Patna

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Akhilesh Dutta Verma

For the Vigilance : None

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR
SINGH

ORAL ORDER

4 09-03-2015 This application is directed against the order dated

18.11.2014 passed in Confiscation Case No.7 of 2012 by the

learned Special Judge-cum-Authorized Officer, Muzaffarpur.

The appellant had filed a petition on 3.6.2014 for dropping confiscation proceeding on the ground that in 2012 when the confiscation case was registered, there was no material before the Special Judge-cum-Authorized Officer, Muzaffarpur as per section 13 of the Bihar Special Courts Act, 2009 (hereinafter referred to as 'the Act of 2009') to register Confiscation Case No.7 of 2012 and take cognizance under the Act of 2009. The said application of the appellant was dismissed by the court below on 18.11.2014. Hence, this appeal has been filed under section 17 of the Act of 2009.

It would appear from the record that Special Case No.36 of 2007 was registered against the appellant under section 13(1)(e) of the Prevention of Corruption Act for being in possession of property disproportionate to his known sources of income. A separate case being Confiscation Case No.7 of 2012 was registered on 15.2.2012 under the Act of 2009.

Learned counsel for the appellant has submitted that a petition under section 13 of the Act was filed on 26.6.2013 and, therefore, the confiscation proceeding could not have been initiated in the year 2012. He has further submitted that when the Confiscation Case No.7 of 2012 was opened, there was no application filed by the Authorized Public Prosecutor as per Rule 14 of the Bihar Special Courts Rules, 2010.

Despite service of notice, none has appeared for the Vigilance. However, I have perused the impugned order. It would appear from the order impugned that in Special Case No.36 of 2007, the then Special P.P. filed a petition to open a separate record for confiscation proceeding on 15.2.2012 under the Act of 2009 and, accordingly, a confiscation case was registered and numbered as Confiscation Case No.7 of 2012. Thereafter, on 26.6.2013, a petition as required under section 13 of the Act of 2009 was filed. The defect, if any, in filing the confiscation case

earlier on 15.2.2012 has been cured by filing an appropriate affidavit in accordance with law on 26.6.2013. Hence, even if the case was registered on the basis of an earlier application in the year 2012, the same has caused no prejudice to the petitioner.

In that view of the matter, I am of the considered opinion that there is no illegality in the impugned order dated 18th August, 2014 passed by the court below. Accordingly, the appeal, being devoid of any merit, is dismissed.

(Ashwani Kumar Singh, J)

Md.S./-

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