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IN THE HIGH COURT OF JUDICATURE AT BOMBAY.

CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 332 OF 2014

Smt. Sumitra Subroto Banerji ... Applicant

Versus

The State of Maharashtra and another ... Respondents

Mr. S. Nangare i/by Rajeev Sawant & Associates for the applicant.

Smt. A.A. Mane,A.P.P. For the State.

Ms. Rebecca Gonsalves for respondent no. 2.

CORAM : M.L. TAHALIYANI, J.

DATED : JULY 01, 2015

P.C.

The present revision application is allowed to be converted into petition. Necessary amendments to be made. Thereafter it be registered as criminal writ petition.

2. Admit. Heard forthwith.

3. Heard learned counsel for the applicant and learned Special Public Prosecutor for the State. The applicant is one of the accused before the trial court in the case under Prevention of Corruption Act. She was working as Assistant Commissioner of Income Tax. She was found to be in possession of assets disproportionate to her known sources of income and therefore, she

has been prosecuted for the offence punishable under section 13(2) read with 13(1)(e) of the Prevention of Corruption Act.

4. Lot of properties have been seized by the Investigating Officer during the course of investigation which included ornaments found in the locker No. 353, IDBI Bank, Chembur Branch. The applicant had applied for return of the certain property which she claims to be her '*stridhan*' and further claims to be property which could not be included in the alleged ill-earned property. Her application submitted before the trial Judge has been rejected. The applicant is therefore, aggrieved by the said order. She has filed present writ petition to challenge the said order of the learned Special Judge.

5. During the course of arguments, learned counsel Mr. Nangare submits that at least part of the property found in the locker is valued at Rs.12,22,061/- by the Investigating Officer can be returned to the applicant in view of the fact that the Investigating Officer has himself given benefit of exemption in respect of the said property. The said property worth about Rs.12 lacs has not been included in the property allegedly disproportionate to the known source of income of the applicant.

6. The prayer of the learned counsel Mr. Nangare is reasonable and could have been granted. But the difficulty is that the concession given by the Investigating Officer is in respect of weight and value of the property. The Investigating Officer has not identified the items mentioned at Sr. No. 15 which are not included in the property disproportionate to the known source of income of the applicant. In the circumstances, it is necessary to identify those items which form part of the gold and diamond ornaments

worth Rs.12,22,061/-.

7. In the circumstances, the applicant will have to move the trial Court again specifying the items which she claims in column 15 of the income of the applicant and her husband during the check period which is in tabulated form. At the same time, it is also necessary for the Investigating Officer to examine whether the identification of the articles made by the applicant is right or wrong. Learned Judge therefore, will have to decide the fresh application submitted by the applicant after hearing the applicant and the Investigating Officer.

8. This writ petition stands disposed of with a liberty to the applicants to move the learned trial Judge afresh for return of gold/diamond ornaments worth Rs.12,22,061/-.

Criminal Revision Application stands disposed off accordingly.

(JUDGE)